Francis Lord Bacon, 18 Jac. I.

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39. Proceedings against

Try the Lord's Professor) took up upon him to broke for him, in such a manner as was never precedent by any.

He made Egerton to acknowledge a Recogni-

zance of 10,000 £, with a Deed, that if my Lord Chancellor did decree it for him, 6,500 £ was to be distributed among those honori-

able Persons that did solicit it for him: But if it did not go as they desired, he promised, in verbo

Sacerdotis, that he would deliver up the Bonds.

- This appeal'd by Letters from the now Rever-

end Bishop, but the Præfet Doctor.

Mr. Johnson (a moral honest Man) perceiving that Mr. Egerton finding no Relief, did intend to prefer a Petition against the Lord Chancellor by one Hatcher's means, took occasion to talk with Mr. Egerton; asking him why he would prefer such a scandalous Petition against my Lord; he would have him take the Money out of the Petition, and then his Caufe by the Mediation and Confe-

ference of some other Judge with my Lord, might be brought to a good End; and for Money, if he had lent any, might they be satisfy'd again.

Afterwards upon a Petition to the King by Sir Rowland Egerton, there was a Reference of this Mate to the Lord Chancellor, and Mr. Edward Egerton enter'd into a Bond for ten thousand £.

He had treated with one Dr. Sharp, that if he would give 1,000 £, he should have his Deed.

We went for Sharp, but he deny'd that he ever confromd with him.

The Deed of the Committee was, to reform

that which was amiss; and they thought fit to give as much Expedition as might be, because so great a Man's Honour is foil'd with it, and there-

fore do think that farther Inquisition be made this Afternoon, and when the Truth of the Matter is found, then to be sent to the Lords.

Thus I have faithfully related what hath past, and with as much Duty and Respect, as I might, to my Lord Chancellor; I defire it to be carry'd out of the House with a favourable Construction.

Order'd.

That this Matter be further consider'd by the Committee this Afternoon.

Then the Houfe adjourn'd.

Sabbati 17° die Martii, 1620.

Sir Robert Phillips made Report from the Committee of the Abuses in the Courts of Justice, &c.

We met on Thursday in the Afternoon; the principal Thing wherein I defir'd to be satisfy'd was, whether at the Time of giving those Gifts to the Lord Chancellor there were any Suit depending before him.

In Aubrey's Cafe it appear'd plainly there was: Something accidentally fell out in this Examination, and that is, a Declaration of Sir George Haf-

ings, who hath been struggling with himself betwixt Gratitude and Honesty; but publick and private Goods meeting, he prefer'd the Publick, and own'd, that he taking pity on Aubrey's Suit, did give in a Box of 100 £, to the Lord Chancellor, in these Terms or the like, That it was to help Aubrey in his Cause. Notwithstanding, not long af-

Later, a very prejudicial andmurdering Order was made against Aubrey in his Cafe; whereupon Sir George Hafings mov'd my Lord Chancellor to retify this Order. My Lord promis'd to do it, but did it not.

The Order was put into the Hands of one

Church (one of the Register's Chancery) by a Servant of the Lord Chancellor's. There are Letters of Aubrey's to the Lord Chancellor touching this Business.

Now for Mr. Egerton's Cafe: As the Matter was of more Weight, so the Sum was of larger Ex-

tent, for there was 400 £; given then, and a Suit

then dependeing in the Star-Chamber; about which time Sir Rowland Egerton did prefer a Petition to the King for a Reference unto the Lord Chancel-

lor: Whereupon my Lord cau'd him to enter in-
to a Bond for fix thousand £s to stand to his Award. An Award was afterwards made, which was refu'd by Mr. Edward Egerton; thereupon a Suit by the Lord Chancellor's Direction was commences against him, and the Bond of fix thousand £s afford'd over to Sir Rowland Egerton.

About this time Edward Egerton became ac-

quainted with Dr. Field, and related his Caufe un-
to him; who pitty'd him, sent him to two worthy Gentlemen, Mr. Dampier and Sir John Butler, (who is now dead) he makes known his Cafe to them, and defires them to be a means to put off his Caufe from Hening, because his Winielles were not here.

Whereupon Dampier wrote to the Duke of Buckingham to have had his Letter to the Lord Chancellor to stop it: But the Duke said he would not write, because the Matter was already decreed, and he would not receive it.

Mr. Egerton was drawn into a Bond of 1000 £s for the Payment of 6,000 £s: and Mr. Dan-

pier being alud what he and Dr. Field should have had of this Money, he said, he did not re-

member what certain Sum; but he said it was more than any Caufe could deferve in any Court of Justice.

In Aubrey's Cafe this is to be fid, That Sir George Haflings being at Hockbe, where he dwelt, was sent for by the Lord Chancellor, and accordingly he came to him and found him in Bed, who bid him come near him, and velliect the rest to depart the Room; and then said unto him, Sir George, I am sure you love me, and I know that you are not willing that any thing done by you shall reflect any Dishonour upon me. I hear, that one Aubrey pretends to petition against me; be is a Man that you have some Interest in; you may take him off if you please.

Sir George Haflings afterwards met with Aubrey, and asted him whether he intended any such thing, and defir'd to see it, to flew my Iord Chancellor; which Sir George accordingly did, and desir'd my Lord to do the poor Man Justice.

My Lord promis'd to do it, and bad him bring his Council; and they did, but could have no Re-

medy, to the Petition went on.

Sir George Haflings, some time since, had Con-

ference with my Lord Chancellor; and he told him, He must lay it upon his Lordship. If you do, George, (said he) I must deny it upon my Honour. Thus you see the Relation of what hath past.

Now for our Proceedings in it; it is a Caufe of great Weight, it concerns every Man here: For if the Fountains be muddy, what will the Streams be?
If the great Defender of the King’s Confidence be corrupt, who can have any Courage to plead before him?

I will present one thing unto you, and then make a Requet.

That which I move is, That we present his Business singly to the Lords, and deliver it without Exasperation; if. Because there is but one Precedent for it, in the like Case, for a Chancellor in a Cause of Corruption. 24th. Because the Party acceded is a Peer of the Kingdom, fitting in the higher House, whom we cannot meddle with. 24th. Because we have no Power to give an Oath. That which I request is, that those People which are been fettered with such Calamity by these Courts, may by Petition to his Majesty, or otherwise, have their Cause Revived and Revived.

Sir Edward Sackville. This honourable Lord stands but yet suspected, and I hold not those Gentlemen that have testified against him competent Witnesses.

First, Because they speak to discharge themselves. Secondly, Because if he be guilty, they were those that tempted him. But yet, if notwithstanding you resolve to find it upon the Lords, let it be presented without any prejudicial Opinion, to be weighed in the Balance of their Lordships’ Judgments. And if they think fit to examine these Witnesses, let them,

Sir George Hapings. This adds to my Grief; but this is my Resolution, I had rather perish with a just Sentence here, than escape with a guilty Confidence.

Some moved that Sir George Hapings and Sir Richard Tong should be required from Parliament till the Matter was ended; but there was nothing order’d therein. Mr. Neville. After some Refutation within me, I am resolv’d to speak what my Confidence leads me unto.

I speak for the good of my Country, the honour of my King, and advancement of Justice.

Justice is the Fountain, the King the Head thereof, as clear as the Waters of Stioab, pure as the River of Dananca: but there is a derivative Justice brought unto us by Channels, those are often muddy and more bitter than the Waters of Merab: Such Waters flow abundantly in Chancery. I will not touch upon the Perpet of him that fits in Court, for he is the Defender of the King’s Confidence; but because some Motions are made against the Testimony of those Gentlemen, I will say this, I think them fit to fit here, because they are neither Delinquent nor Accused.

My Lord means to deny it upon his Honour: But I would not have that serve his Turn, for he himself hath made the Nobility swear in Chancery. Therefore I would have their Lordships inform what Privileges they have lost. Now, I would have them note the luxuriant Authority of that Court, and how it is an inexplicable Labyrinth, wherein refieth such a Monitor as garriamizeth the Liberty of all Subjects whatsover.

Mr. Recorder Finch. If we shall make but a Presentation of this, we do in a sort accuse him, nay judge him; if the Gentlemen be admitted to give Testimony, before it shall condemn another it must agree with itself.

First, I heard him say, he gave it as a Precent from himself: Yet afterwards he faith, he told my Lord Chancellor he had it from Aubrey.

Again, Aubrey speaks not of any Delivery of Money himself to my Lord Chancellor. Then again it’s urged, that a discontented Sitter writ Letters to my Lord: The Letters are rejected, nor hearten’d unto; what doth this but free him?

In the other Case, if Egerton, out of a Desire to congratulate his new coming to the Seat, made my Lord a Present for his Kindness and Pains in former Businesses, what Wrong hath he done if he hath received a Present? And tho’ a Suit were depending, yet who keeps a Register in his Heart of all Causes? Nay, who can, amongst such a Multitude?

And for the six thousand Marks there is no Colour to say that ever he was to have any Part thereof. For taking away the Privilege of the Nobility in requiring an Oath, he found the Court posseff’d of it before he came there, so that we have no sufficient Grounds to accuse to great a Lord upon that Account.

But if we shall present Articles to the Lords, what do we (as I had before) but accuse him?

Sir Edward Colte. It is objected, that we have but one single Witness; therefore no sufficient Proof.

I answer, That in the 37th of Eliz. in a Complaint against Soldier-Sellers, for that having Warrant to take up Soldiers for the Wars, if they pretend, rich Man’s Son they would discharge him for Money, there was no more than finger’s breadth in one Matter; but tho’ they were single Witnesses in several Matters, yet agreeing in one and the same third Perfon, it was held sufficient to prove a Work of Darkness.

For in such Works it is a marvel there are any Witnesses. But some object, that these Men are culpable; and therefore no competent Witnesses.

I answer, They came not to accuse, but were interrogated. If be interrogated, I had rather speak Truth than respect any Man; and you will make Bribery to be unpunish’d, if he that carrieth the Bribe shall not be a Witness.

In this, one Witness is sufficient; He that accuteth himself, by accusing another, is more than three Witnesses: and this was wrought out of them.

Order’d,

That the Complaint of Aubrey and Egerton against the Lord Chancellor and the Bishop for Corruption, for the 10th and 400th and the Recognizance, should be drawn up by Sir Robert Phillips, Sir Edward Coke, Mr. Noy, and Sir Dudley Digges; and that the same be referred to the Lords without Prejudice or Opinion at a Conference; and that a Message be sent to the Lords for this Purpose on Monday next.

Adjourn’d, &c.

* This focus to be the Cafe of Cardinal Wolsey. See 3 Co. Inst. 1 2. 4 Co. Inst. 39.

Vol. I.
Francis Lord Bacon, 18 Jac. I.

30. Proceedings against Francis Lord Bacon, 18 Jac. I.

A Meassage was sent to the Lords by Sir Robert Phillips, to define a Conference touching the Lord Chancellor and the Bishop of London, being petition'd against by Audrey and Egerius.

Sir Robert Phillips reports that the Lords had agreed to a Conference.

Mr. Secretary Colbert brings a Meassage from the King, that this Parliament hath sat a long time, and Eg Left is near come, and thinks it is fit there should be a Cessation for a time; yet the King will appoint no time, but leaves it to your felicity.

But for the beginning again, he thinketh the 10th of April a fit time, but will appoint none; only he would have you take care that there be no impediment in the Subsidies.

The King also took notice of the Complaints against the Lord Chancellor, for which he was sorry, for it hath always been his Care to have placed the best; but no Man can prevent such accidents: But his Comfort was, that the House was careful to preserve his Honour.

And his Majesty thought not fit to have the Affair long hung in suspense; therefore would not have any thing to hinder it.

But for the Furtherance thereof, he propounded a Comission of six of the higher House, and twelve of the lower House, to examine it upon Oath.

This Propposition if we liked well, he would send the like to the Lords, and this he thought might be done during this Cessation: and tho' he hoped the Chancellor was free, yet if he should be found guilty, he doubted not but you would do him Justice.

Sir Edward Coke said, We should take heed the Comission do not hinder the Manner of our Parliamentary Proceedings.

The Answer return'd to the King was, To render him Thanks for the first Part of his gracious Meassage.

And for the second, we declared that the like Meassage may be sent to the Lords; for there being so great a Concurrence between us, we may have Conference with them about it.

And then Adjourn'd, &c.

Mar't 30. die Martii 1620.

Sir Edward Giles made a Motion that one Churchill should be called in.

Whereupon there was a Petition of one Montague, Wood, &c. against the Lord Chancellor for taking 300 l. of the Lady Wharton, and making Orders, &c. which was read.

Churchill and Keeling were said to be Witneses, and a Committee was appointed to examine them.

Sir Robert Phillips reports from the Conference, that according to the Commandment of this House he had deliver'd thofe Heads which were agree'd on at the Conference Yester-day, esquising himself if he had failed in any Point.

That the Lords accepted it with a great deal of Affection, as sensible of the Wrong done to the Commonwealth; and return'd Answer by the Lord Treasurer: Forth, By way of Question, Whether we would not reduce them into Writing. Refus'd

No, for no Cause; this only consisting of two or three Points, clear and plain: and as for the Letters and other things which the Lords desire, we would acquiesce the House, and doubted not but it would be yield'd.

The Lords further return'd for Anwer, That they would proceed in this Matter with Care, Diligence and Expedition.

A Meassage from the Lords to signify, that they have taken into Consideration the last Conference, and will need the Testimonies of two Members of this House, and therefore desire, that voluntarily, and without ordering, as private Persons, they make Declaration upon Oath, and the like for others if occasion were.

The Anwer return'd was, That the Gentlemen would attend voluntarily as private Gentlemen, and upon private Notice be examined.

Sir Robert Phillips reports from the Committee appointed to examine Churchill; from which Particular a General may be extracted, conducing to the Discovery of Corruption in the Lord Chancellor.

The Lady Wharton having a Cause depending in Chancery, many Orders were made in it.

Amongst the rest, there was an Order made for the Divisition of the Bill, by the convenient of the Council on both sides; which my Lady did think, took Churchill the Register into her Couch, and carry'd him to my Lord Chancellor's, and so wrought that he was willing not to enter the left Order; so that my Lady was left at liberty to prosecute it in Chancery, brought it to a Hearing, and at length got a Decree.

Keeling being examined, faith, That near about the time of passing this Decree, my Lady took an hundred Pound (she faiwed it) and he made him faiwed down the Words and Style which she should use in the Deliverry of it.

Then she goes to Tork-bonc, and deliver'd it to my Lord Chancellor, as she told him.

She carry'd it in a Purse.

My Lord asked her, What had she in her Hand? She reply'd, A Purse of my own making, and present'd it to him: who took it and said, What Lord could refuse a Purse of fit fair a Lady's Working. After this my Lord made a Decree for her, but it was not perfected; but 200 l. more being given (one Gardiner being present) her Decree had Life.

But after the giving of the 100 l. because she had not 200 l. ready in Money, one Stute dealt with her to convey the Land to my Lord Chancellor and his Heirs, referring an Estate to her self for Life: But the knowing no Reason to disinherit her own Children, asked Keeling her Man what he thought of it; he (like an Honest Servant) was against it; but Stute knowing this, sets upon Keeling, and brings him to be willing my Lady should do it, with Power of Revocation upon the Payment of 200 l. but that not being liked, they made a Shift to pay 200 l. in a reasonable time.

Keeling falls into some Speeches, as if he had left Tork-bonc for the Corruption which was there, which he himself knew in part.

Gardiner, Keeling's Man, confirm'd the Payment of the 300 l. for the Decrees, viz. 100 l. before, and 200 l. after.

This purchase'd Decree being lately damaged again by my Lord Chancellor, was the Cause of this Complaint,

Keeling
Keeling faith, Sir John Trevor did present my Lord Chancellor with 100 l. by the Hands of Sir Richard Tong, for a final End to this Cause. Sir Richard Tong answer'd, That when he attended my Lord Chancellor, Sir John Trevor's Man brought a Cabinet and a Letter to my Lord Chancellor, and intreated me to deliver it, which I did openly, and this was openly done, and this was all I knew of it.

Sir Edward Coke. Strange to me that this Money should be thus openly deliver'd, and that one Gardiner should be present at the Payment of the 200 l.

Ordered,
That Sir Robert Phillips do deliver to the Lords this Afternoon the Bishop of Landaff and Aubrey's Letters, and all other Writings that he hath.

And then Adjourn'd, &c.

Mercurii 21st die Martii 1620,

Sir Robert Phillips reports from the Committee appointed to examine Keeling and Churchill, who inform'd many Corruptions against the Lord Chancellor.

1. In the Cause between Hall and Holman, Hall gave or lent my Lord one thousand pound since the Suit began.

2. In the Cause between Wroth and Manwaring, there were one hundred Pieces given, of which Hunt had 20 l.

3. Hobbs gave a Jewel which was thought to be worth 500 l. but he himself said it was a Trifle of a hundred or two hundred Pound Price: It was presented to the Lord Chancellor by Sir Thomas Perys and Sir Henry Holanes.

4. In the Cause between Pecock and Reynell, there was much Money given on both Sides.

5. In the Cause of Barker and Bill, Barker said he was 300 l. out in Gifts since this Suit began.

Proceedings in the House of Lords.

On Monday the 19th Day of March 1620, in the Afternoon the Commons had a Conference with the Lords: which Conference was reported the next Day by the Lord Teyouges; That it was the desire of the Commons to inform their Lordships of the great Abuses of the Courts of Justice, the Information whereof was divided into three parts.

First, The Persons accused.

Secondly, The Matters objected against them.

Thirdly, The Proofs.

The Persons are the Lord Chancellor of England, and the new Bishop of Landaff, being then no Bishop, but Dr. Field.

The Incomparable good Parts of the Lord Chancellor were highly commended, the Place he holds magnified, from whence Bounty, Justice and Mercy were to be distributed to the Subjects, with which he was solely trusted; whither all great Causes were drawn, and from whence no Appeal lay for any Injustice or Wrong done, save to the Parliament.

That the Lord Chancellor was accused of great Bribery and Corruption, committed by him in this eminent Place; whereof two Causes were alleged.

The one concerning Christopher Aubrey, and the other concerning Edward Egerton.

1. In the Cause depending in the Chancery between the said Aubrey and Sir William Braker, Aubrey being none hard Measure, was advised to give the Lord Chancellor 100 l. the which he delivered to his Council, Sir George Houghtings, and to the Lord Chancellor; This Business proceeding from mutual Acquaintance, Aubrey did write divers Letters, and delivered them to the Lord Chancellor, to which he never obtained any Answer from his Lordship, but at last delivering another Letter, his Lordship answered, If he suspected him, he would lay him by the Heels.
The Proceedings against Francis Lord Bacon, 18 Jac. I.

The proofs of this accusation are five.

First, Sir George Egerton relating it long since unto Sir Charles Montague.

Secondly, The Lord Chancellor fearing this would be complained of, desired Silence of Sir George Egerton.

Thirdly, Sir George Egerton's Testimony thereof, which was not voluntary, but urged.

Fourthly, The Lord Chancellor desired Sir George Egerton to bring the Party Asbury unto him, and promised Refrains of the Wrongs done him.

Fifthly, That the Lord Chancellor went unto Sir George Egerton, if he should affirm the giving of this 100 l. his Lordship would and must deny it upon his Honour.

2. The Cafe of Sir Edward Egerton is this: There being divers Suits between Edward Egerton and Sir Royald Egerton in the Chancery, Edward Egerton presented his Lordship, a little after he was Lord Keeper, with a Bailon and Ewer of the Value of 50 l. and upwards; and afterwards he delivered unto Sir George Egington, and Sir Richard Tong, 400 l. in Gold.

Sir Richard Tong presented it to his Lordship, who took it, and pawned it, and said it was too much; and returned Asbury, that Mr. Egerton had not only enriched him, but had laid a tape upon his Lordship to do him Favour in all his Jut Gaunts.

The proofs for this are the Testimony of Sir George Egerton, and the Testimony of Melfil a Scrivener thus far, that he took up 700 l. for Mr. Egerton; Mr. Egerton then telling him that a great part of it was to be given to the Lord Chancellor, and that Mr. Egerton afterwards told him that the 400 l. in Gold was given to the Lord Chancellor.

At this Conference was farther declared something relating to a Bishop, who was touched in this Business upon the icy. whole Function was much honored, but his Person touched herein: The Business depending between the Egertons being ordered against Edward Egerton, he procured a new Reference thereof from the King to the Lord Chancellor; his Lordship demanded the Parties to be bound in 6000 Marks to stand to his Lordship's Award; they having entered into that Bond, his Lordship awarded the matter against Edward Egerton for Sir Royald Egerton; but Edward Egerton refusing to stand to the said Award, a new Bill was exhibited in the Chancery, and thereupon his Lordship ordered that this Bond of 6000 Marks should be assigned unto Sir Royald Egerton, and he to put the same in Suit to his Lordship's Name.

The Bishop of Landaff, as a Friend to Mr. Edward Egerton, adv'd with Randolph Daupont and Butler (which Butler is now dead) that they would procure a flat of the Decree of that Award, and procure a new Hearing; upon which it was agreed, that the said 6000 Marks should be given for this by Edward Egerton, and shared amongst them, and amongst certain Noble Persons.

A Recognition of 10000 Marks was required from Mr. Egerton to the Bishop for the Performance hereof; the Bishop his Share of this 6000 Marks was so great, as no Court of Justice would allow.

To prove this, they produce Letters of the Bishop, nam'g the Sum, and setting down a Courte how these 6000 Marks might be paid; viz. the Lord in question to be deduced for Mr. Egerton, and out of that the Money to be levied; and if this were not effected, then the Bishop to sign Seccrecis promised to deliver up this Recognition to be cancelled; the new Recognition is sealed accordingly, and Randolph Daupont rides to Court, and moved the * Lord Admiral for his Lordship's Letter to the * Lord Chancellor herein; but his Lordship denied to meddle in a Cause depending in Suit.

Then the said Randolph Daupont applied to get the King's Letter, but failed therein also; so that the Good they intended to Mr. Egerton was in no effect, and yet the Bishop, tho' requifls, refused to deliver up the said Recognizance, until Mr. Egerton threatened to complain thereof unto the King.

The Lord Treasurer flewed all that the Commons do purpose, that if any more of this kind happen to be complained of before them, they will present the same to your Lordships, wherein they shall follow the ancient Precedents, which shew that great Perasons have been accused for the like in Parliament.

They humbly desire, that forasmuch as this concerneth a Person of so great Emineney, it may not depend long before your Lordships, that the Examination of the Proofes may be expedited, and if he be found Guilty, then to be punished; if not Guilty, the new Accusers to be punished.

This being reported, the Lord Admiral presented to the House a Letter written unto their Lordships; the Tenor whereof follows.

My very good Lords,

' I humbly pray your Lordships all to make a favourable and true Confirmation of my Absence; it is no seignioring nor flaunting, buticks both of my Heart, and of my Back, ' tho' joined with that Comfort of Mind, that ' perfumes me, that I am not far from Heaven, ' whereof I feel the first Fruits: and because whe- ' ther I live or die, I would be glad to preserve ' my Honour and Fame as far as I am worthy; ' hearing that some Complaints of base Bribery ' are coming before your Lordships, my Requests ' unto your Lordships are,

"First, That you will maintain me in your good 
Opinion without Prejudice, until my Cause be 
heard.

Secondly, That in regard I have questr'd 
my Mind at this time in great part from worldly 
Things, thinking of my Accompt and Answer 
in a higher Court, your Lordships would give me 
convenient Time, according to the Course of 
other Courts, to advife with my Council, and 
to make my Answer; wherein nevertheless my 
Council's part will be the least, for I shall not 
by the Grace of God trick up an Innocency with 
Cavillations, but plainly and ingenuously, as ' your Lordships know my manner is, declare 
what I know or remember.

Thirdly, That according to the Course of Ju-
tice, I may be allowed to except to the Wit- 
nesses brought against me, and to move Quefti-
ions to your Lordships for their crofs Exam-
ination, and likewise to produce my own Wit-
nesses for discovery of the Truth.

* And
And Lofly. That if there come any more
Revisions of like Nature, that your Lordships
would be pleased not to take any Prejudice or
Apprehension of any Number or Muster of them,
especially against a Judge, that makes two
Thousand Orders and Decrees in a Year; not
to speak of the Courses that have been taken for
hunting our Complaints against me; but that I
may answer them according to the Rules of
Justice severally and respectively. These Re-
quests I hope appear to your Lordships no
other than just; and I thinking my self happy
to have so Noble Peers, and Reverend Prelates
to discern of my Cause, and defining no pri-
vilege of Greatness for subterfuge of Guiltiness,
but meaning, as I said, to declare fairly and
plainly with your Lordships, and to put my self
upon your Honours and Favours, I pray God to
bless your Councils, and your Persons; and conf

Your Lordships

March 19th,
1620.

Humble Servant,
Fra. St. Alban.

Upon which Letter, Anwver was sent from the Lords unto the said Lord Chancellor on the said 20th of March, viz. That the Lords received his Lordship's Letter delivered unto them by the Lord Admiral: They intend to proceed in his Cause now before their Lordships, according to the right Rules of Justice; and they shall be glad, if his Lordship field clear his Honour therein; to which End they pray his Lordship to provide for his Jails Service.

And afterwards, on Wednesday the 21st of March, the Commons sent a Message unto the Lords concerning their further Complaint against the said Lord Chancellor; which confitlled of these four Points, viz.

1. The Fire in Chancery being between the Lady Wharton Plaintiff, and Wood and others De-
defendants, upon Cnms-Bills; the Lord Chancellor upon hearing wholly dismiffed them, but upon entry of the Order, the Cnms-Bill against the Lady Wharton was only dismiffed, and afterwards for a Bribe of 300 l. given by the Lady Wharton to the Lord Chancellor, his Lordship decreed the Cause further; and then hearing that Wood and the other Defendants complained thereof to the House of Commons, his Lordship sent for them, and damned that Decree as unduly given: and when the Lady Wharton began to complain there-
of, his Lordship sent for her also, and promis'd her Redress; saying, the Decree is not yet en-
tered.

2. Secondly. In a Suit between Hall Plaintiff and Holman Defendants, Holman delivering his An-
swer was committed to the Fleet, where he lay twenty Weeks; and petitioning to be delivered, was answered by some about the Lord Chancellor, the Bill shall be decreed against him (pro confessa) unless he would enter into 2000 l. Bond to stand to the Lord Chancellor's Order; which he refusing, his Liberty colt him one way or other one Thou-
sand Pounds. Holman being feared out of the Fleet, Hall petition'd to the Lord Chancellor, and Hol-
man finding his Caufe to go hard with him on his side, complain'd to the Commons; whereupon

the Lord Chancellor sent for him, and to pacify him, told him, He should have what Order he would himself.

3. Thirdly. In the Caufe between Smithwick and Welby, the matter in question being for Accompts, it was referred to certain Merchants, who certi-

fied in the behalf of Smithwick: yet Smithwick to obtain a Decree, was told by one Mr. Burrough, one near to the Lord Chancellor, that it must cost him 200 l. which he pay'd to Mr. Burrough or Mr. Hart to the use of the Lord Chancellor, and yet the Lord Chancellor decreed him one part of the Certificate; whereupon he treats against with Mr. Burrough, who demanded another 100 l. which Smithwick also paid to the use of the Lord

Chancellor. Then his Lordship referred the Ac-
counts again to the same Merchants, who certified it again for Smithwick: yet his Lordship decreed the second part of the Certificate against Smith-
wick, and the first part, which was formerly de-
creed for him, his Lordship made doubtful. Smith-
wick petitioned to the Lord Chancellor for his Money again, and Smithwick had all his Money again, gave 20 l. which was kept back by Hart for a Year.

The Lord Chief Justice also de-

Sir John deliver'd three Petitions, which his Lord-

ship receiv'd yesterday from the Com-

mons, the first by the Lady Wharton, the second by Wood and others, and the third by Smith-
wick.

The Fourth part of the Message consists only of
Infrudictions delivered unto the Commons by one
Churchill a Regulator, concerning divers Bribery and
Abuses in the Chancery, which the Commons de-

fere may be examined.

The Lords in the mean time proceeded to the
Examination of the Complaints, and took divers
Examinations of Witneffes in the House, and ap-
pointed a select Committee of themselves, to take
Examination of Witneffes to the Briberies and
Corruptions of the Lord Chancellor; which being
ended and collected, were order'd to be transcribed
with the Proofs, and were as follow.

1. That in the Caufe between Sir Rowland
Egerton and Edward Egerton, his Lordship
received on the part of Sir Rowland Eg-
erton before he decreed for him,

Item, Of Edward Egerton in the said
Caufe.

Item, In the Caufe between Halse and
Halse, a dozen of Buttons (after the Caufe
ended) of the value of

Item, Of the Lady Wharton,

Item, Of Sir Thomas Mank,

Item, Of Sir John Trevor,

Item, Of one Young,

Item, Of one Pither,

Item, In the Caufe of Kendoy and Valerius,

Of Valerius (borrow'd at two times)

Item, In the Caufe between Scott and

Lestbell, of Scott

Item, Of Lestbell,

Item, Of one Wroth, who had a Caufe
between him and one Mauuering,

Item, Of Sir Ralph Hayles,

Item, In the Lord Mountain's Caufe,

or

Item,
Proceedings against Francis Lord Bacon, 18 Jac. I.

Item. Of one Mr. Dane. l. 200
Item. In a Caufc between Reynell and Peacock. 300 l. in Money, and a Diamond.
Ring worth 5 or 600 l. 800
Item. In Peacock's Coaft of Barber. 700
Item. There being a Reference from his Majesty to his Lordship of a Business between the Grocers and Apothecaries, he had of the Grocers.
Of the Apothecaries. (besides a rich Pretend of Ambrosegear) 150
Item. Of the French Merchants, to contrain the Vintners of London to take 1500 Tuns of Wine; to accomplish which, he used very indirect means, by colour of his Office and Authority, without Bill or other Suit depending, as threatening and impri¬foning the Vintners, for which he receiv’d of the Merchants 1000
Leftly, That he had given way to great Ex¬actions by his Servants, in respect of private Seals, and healing Injunctions.

On Friday the 24th of April, the Prince his Highness signified unto their Lordships, that the said Lord Chancellor had sent a Submissão unto their Lordships, which was prently read in bow Verba.

May it please your Lordships,

I shall humbly crave at your Lordships Hands a benevolent Interpretation of that, which I shall now write; for Words that come from wafted Spirits, and an oppressed Mind, are more safe in being deposited in a noble Construktion, than in being circled with any relev’d Caution.
This being moved, and as I hope obtained in the Nature of a Protection for all that I shall say, I shall now make into the reft of that, whereewith I shall at this time trouble your Lord¬ships, a very strange entrance: for in the midst of a State of so great Affliction, as I think a mortal Man can endure. (Honneur being above Life) I shall begin with the proceedings of Glad¬ness in some things.
The first is, that hereafter the Greatness of a Judge or Magistrate shall be no Sacrament or Protection of Guiltines, which (in few words) is the beginning of a Golden World.
The next is, that after this Example, it is like that Judges will fly from any thing that is in the lombes of Corruption (tho’ it were at a great distance) as from a Serpent; which enclineth to the purging of the Courts of Justice, and the reducing them to their true honour and Splen¬dor. And in the two Points, God is my Win¬nes, that, tho’ it be my Fortune to be the An¬vil whereupon the Good Effects are beaten and wrought, I take no small Comfort.
But to pass from the Motions of my Heart, whereof God is only Judge, to the Merits of my Cause, whereof your Lordships are Judges under God, and his Lieutenant; I do understand there hath been heretofore expected from me some Juijlication, and therefore I have chosen one only Jujiication instead of all other, one of the Juijications of Job; for after the clear Sub¬mission and Caution, which I shall now make unto your Lordships, I hope I may say and justify with Job in these words; I have not bis Seed, as did Adam, nor counted my Faults in my Bosom,
this is the only Jujiication, which I will use; it refleths therefore, that without Fig-Leaf I do appear myself a publick Sinner, and that having understood the particulars of the Charge, not formally from the House, but enough to inform my Confidence and Memory, I find matter suf¬ficient and full both to move me to elect the Defence, and to move your Lordships to con¬demn and confine me.
Neither will I trouble your Lordships by fin¬gling those Particulars, which I think can easily be answer’d; Quo te exempta jucundiae spes de paribus non est? neither will I prompt your Lordships to obere upon the Proofs, where they come not home, or the Scruples touching the Credit of the Witnesses, neither will I represent to your Lordships how far a Defence might in others things extenuate the Offence in respect of the time or manner of the Gift, or the like Circumstances; but only leave those things to spring out of your own noble Thoughts and Observa¬tions of the Evidence and Examinations them¬selves, and charitably to wind about the parti¬culars of the Charge here and there, as God shall put you in mind, and so submit my self wholly to your Pity and Grace.
And now that I have spoken to your Lord¬ships as Judges, I shall say a few words to you as Pears and Preflates, humbly commending my Cause to your noble Minds and magnanimous Affections.
Your Lordships are no simple Judges, but parliamentary Judges, you have a farther extent of Arbitrary Power, than other Judges; and if your Lordships be not tied by the ordinary Course of Courts or Precedents in Points of Striking and Severity, much les are you in Points of Mercy and Mitigation.
And yet if any thing which I shall move, might be contrary to your honorable and wor¬thy Endeavor to introduce Reform in Laws, I did not seek it; but herein I beseech you give me leave to tell your Lordships a Story. Titus Mau¬lius took his Son’s Life for giving Battle against the Prohibition of his General; not many Years after the like severity was pursu’d by Papirius Carbo, the Dictator against Quintus Maximus; who, being upon the Point to be executed by the Interceding of some principal Persons of the Senate, was spared; wherupon Livy makes this grave and gracious Observation, Neque minus formata de Dilepina militari periculo Quinti Maximi, quam meritori fulcrum cito Miteli. The End to introduce Reform in Laws, I did not seek by the questioning of Quintus Maximus, than by the punition of Titus Manlius. And the same Rea¬son is of the Reformation of Justice; for the questioning Men of eminent Place hath the fame Terror, tho’ not the same Rigour, with the Punishment.
But my Café frahyth not there; for my hum¬ble define is, that his Majesty would take the Seal into his Hands, which is a great downfall, and may serve I hope in a deed for an expiation of my Faults.
Therefore if Mercy, and Mitigation be in your Powers, and do no way cross your noble Ends, why should I not hope of your Lordships Favour?
Favours and Communion? Your Lordships
will be pleased to behold your chief Pattern, the
King our Sovereign, of most incomparable Cle-
meny, and whose Heart is inculcable for Wit-
dum and Goodness; Your Lordships will remem-
ber that if there not these 200 Years before a
Prince in your House, and never such a Prince,
whose Prefence deserve to be made memorable
by Records and Acts mixt of Mercy and Justice.
Your selves, either Nobles (and Contempla-
tion ever beats in the Veins of noble Blood) or
reverend Prelates, who are the Servants of him
that would not break the bruised Reed, nor
quench the smoking Flax; you all fit upon an
high Stage, and therefore cannot but be more
ferible of the Changes of the World, and of
the Fall of any of High Place.
Neither will your Lordships forget, that
there are vita te puris as well as vita laevas;
and that the beginning of Reformatisons hath
the contrary Power of the Pest of Bethsaida;
for that had strength to cure only him, that
is first cast in, and this Faith strength to hurt
him only, that is first cast in: And for my
part I wish it may fay there, and go no fur-
ther.
Lately, I assure my self your Lordships have
a noble feeling of me as a Member of your
own Body; and one thing there was, that in
this very Sdlian had some tale of your loving
Affections, which I hope was not a Lightning
before Death, but rather a Spark of that
Grace, which now in conclusion will more ap-
ppear.
And therefore my humble Suit unto your
Lordships is, that my penitent Submissio may
be my Sentence, and the Lof of the Seal
my Punishment, and that your Lordships will
spare my farther Sentence: But recommend
me to his Majesty's Grace and Pardon for
all that is past. God's Holy Spirit be among
you.

Your Lordships humble Servant

April 22.
1651.

and Supplicant.

Francs. St. Albans, Con.

The Lords having consider'd of this Submissio,
and heard the Collections of Corruptions charged
uppon the said Lord Chancellor, and the Proofs
thereof read, they sent a Copy of the same
without the Proofs unto the Lord Chancellor by Mr.
Sir Thomas Coventry, and Mr.* Attorney-
General, with this Meffage from their
Lordships, viz.

The Lord Chancellor's Confession is not fully set down
by his Lordship in the said Submissio, for three
Causes.

1. First, His Lordship confess'd not any partic-
ular Brie or Corruption.

2. Nor swereth how his Lordship heard the Charge
thereof.

3. The Confession, such as it is, is afterwards
extenuated in the same Submissio. And there-
fore the Lords have sent him a particular of the
Charge, and do expect his Answer to the same
with all convenient Expedition.

Unto which Meffage the Lord Chancellor an-
swered, that he would return the Lords an An-
swer with speed.

And on the 25th of April, the Lords con-
dered of the Lord Chancellor's said Answer sent
unto their Meffage yesterday, and sent a second
Meffage unto his Lordship to this effect by the
said Mr. Baron Denham, and Mr. Attorney Gen-
eral, viz. The Lords having received a Doubtful
Answer unto the Meffage their Lordships sent him
yesterday, therefore they now send him again
to know of his Lordship directly, and precisely,
whether his Lordship will make his Confession, or
stand upon his Defence.

Answer returned by the said Meffengers, viz.
The Lord Chancellor will make no manner of De-
fense to the Charge, but meaneth to acknowledge
Corruption, and to make a particular Confession to
every point, and after that an humble Submissio;
but humbly craves Liberty, that where the Charge
is more full than he finds the Truth of the Fact,
he may make Declaration of the Truth in such
Particulars, the Charge being brief, and contain-
ing not all Circumstances.

The Lords sent the same Meffengers back again
to the Lord Chancellor, to let him know, that
their Lordships have granted him time until Mon-
day next the 30th of April, by Ten in the Morn-
ing, to send such Confession and Submission as his
Lordship intends to make.

On which Monday the Lord Chancellor sent
the same answer accordingly, which follows in thes Verba,
viz.

To the Right Honorable the Lords Spiritu-
al and Temporal, in the High Court of
Parliament assembled:

The humble Confession and Submissio of me
the
Lord Chancellor.

UPON adv'd Consideration of the Charge,
defending into my own Conscience, and
calling my Memory to account so far as I am
able, I do plainly and ingenuously confess, that
I am guilty of Corruption, and do renounce all
Defence, and put my self upon the Grace and
Mercy of your Lordships.

The Particulars I confess and declare to be as
followeth:

To the first Article of the Charge, viz. In the
Cause between Sir Rowland Egerton and Edward
Egerton, the Lord Chancellor receiv'd 30 l. on
the part of Sir Rowland Egerton, before he had
decreed the Cause.

I do confess and declare, that upon a Reference
from his Majesty of all Suits and Controversies be-
tween Sir Rowland Egerton and Edward Egerton,
both Parties submitted themselves to my Award
by Recognition reciprocals in 400 Marks a-piece
between them, after divers Hearings. I made my
Award, with the Advice and Consent of my
Lord Hobart. The Award was perfected and
published to the Parties, which was in February.
Then some Days after, the 300 Pounds, mentioned
in the Charge, were delivered unto me. After-
wards Mr. Edward Egerton drew off from the
Award. Then in Midsummer Term following a
Suit was begun in Chancery by Sir Rowland, to

I have
have the Award confirmed: And upon that Suit was the Decree made, mentioned in the Article.

The second Article of the Charge, viz. In the fame Caufe he received from Edward Egerton 400 l.

I confess and declare, that Ioffen after my first coming to the Seal, being a Time when I was prefented by many, the 400 l. mentioned in the faid Charge, was delivered unto me in a Purse, and as I now call to mind, from Mr. Edward Egerton; but, as far as I can remember, it was exprefsed by them that brought it, to b: for Favourites paft, and not in repect of Favours to come.

The third Article of the Charge, viz. In the Caufe between Holy and Holy, he received a dozen of Buttons of the value of 50 l. about a Fortnight after the Caufe was ended; I confess and declare, that as it is laid in the Charge about a Fortnight after the Caufe was ended, it being a Suit for a great Inheritance, there were gold Buttons, about the value of 500 l. as is mentioned in the Charge, presented unto me, as I remember, by Sir Thomas Perrot, and the Parry himself.

To the fourth Article of the Charge, viz. In a Caufe between the Lady Wharton and the Coheirs of Sir Francis Willingby, he received of the Lady Wharton three hundred and ten Pounds.

I confess and declare, that I did receive of the Lady Wharton, at two several times, as I remember, in Gold 100 l. and 100 Pieces, and this was certainly Pendente Lite: But yet I have a velemitment Sufpicion, that there was some fluffling between Mr. Slute and the Regiller, in entering some Orders, which afterwards I did difcover.

To the fifth Article of the Charge, viz. In Sir Thomas Monk's Caufe, he received from Sir Thomas Monk, by the Hands of Sir Henry Holmés, 110 l., but this was three quarters of a Year after the Suit was ended:

I confess it to be true that I received 100 Pieces, but it was long after the Suit ended, as is contained in the Charge.

To the sixth Article of the Charge, viz. In the Caufe between Sir John Trevor and afje, he received on the part of Sir John Trevor 100 l.

I confess and declare, that I received at New-Year's-Tide 100 l. from Sir John Trevor; and because it came as a New-Year's Gift, I neglected to inquire, whether the Caufe was ended, or depending: but since I find, that the Caufe was then dimiftled to Trial at Law, yet the Equity was preserved, fo as it was in that kind Pendente Lite.

To the seventh Article of the Charge, viz. In the Caufe between Holmés and Young, he received of Young 100 l. after the Decree made for him.

I confess and declare, that as I remember, a good while after the Caufe ended, I received 100 l. either from Toby Matthew or from Young himself: but whereas I have understood, that there was some Money given by Holmés to my Servant Hatchet, to that Certainty I was never made privy.

To the eigth Article of the Charge, In the Caufe between Fisher and Wrensham, the Lord Chancellor, after the Decree passed, received a Suit of Hangings worth one hundred and three score Pounds and better, which Fisher gave him by advice of Mr. Slute.
To the fourteenth Article of the Charge, viz. He received of Sir Ralph Hanley, having a Caufe depending before him, 500 l.

I confefs and declare, that there were two Decrees, one, as I remember, for the Inheritance, and the other for the Goods and Chattels, but all upon one Bill: and some good time after the first Decree, and before the second, the said 500 l. was delivered unto me by Mr. Toly Mattey; so as I cannot deny but it was upon the matter Penetante Litice.

To the fifteenth Article of the Charge, viz. William Compton being to have an Extent for a Debt of 1200 l. the Lord Chancellor flaid it is, and wrote his Letter; upon which part of the Debt was paid presently, and part at a future Day. The Lord Chancellor hereupon lends to borrow 500 l. and because Compton was to pay 400 l. to one Husley, his Lordship requires Husley to forbear six Months, and hereupon obtains the Money from Compton. The Money being unpaid, Suit grew between Hanley and Compton in Chancery, where his Lordship decrees Compton to pay Husley the Debt, with Damage and Costs, when it was in his own Hands. I do declare, that in my Confcience the flay of the Extent was just, being an Extremity against a Nobleman, by whom Compton could be no lofter. The Money was plainly borrowed of Compton upon Bond with Interfret, and the Meflage to Husley was only to intreat him to give Compton a longer Day, and in no fort to make me Defuent, or responsible to Husley; and therefore I was not ready to pay Compton his Money, as I would have been glad to have done, five only 100 l. which is paid, I could not deny Justice to Husley in ample manner as if nothing had been between Compton and me: But if Compton hath been damnified in my refpeft, I am to confider it to Compton.

To the sixteenth Article of the Charge, viz. In the Caufe between Sir William Brencher and Audrey, the Lord Chancellor receiv'd from Audrey 100 l. I do confefs and declare, that the Money was given and received; but the manner of it I leave to the Writ itself. I

To the seventeenth Article of the Charge, viz. In the Lord Montague's Caufe he received from the Lord Montague 6 or 700 l. and more was to be paid at the ending of the Caufe: I confefs and declare, there was Money given, and as I remember, to Mr. Bevis Thekeall, to the Sum mentioned in the Article, after the Caufe was decreed; but I cannot say it was ended, for there have been many Orders since cauf'd by Sir Francis Ingoldsby's Contemptis: and I do remember, that when Thekeall brought the Money, he faid, that my Lord would be yet farther thankful if he could once get his quiet. To which Speech I gave little regard.

To the eighteenth Article of the Charge, viz. In the Caufe of Mr. Dunetz, he received from Mr. Dunetz 300 l. I confefs and declare, that it was delivered by Mr. Thekeall to Hatchby, my Servant, for me, as I think some time after the Decrees; but I cannot precisely inform my felf of the time.

To the nineteenth Article of the Charge, viz. In the Caufe between Reynell and Penke, he received from Reynell 300 l. and a Diamond Ring worth 5 or 600 l.

I confefs and declare, that at my first coming to the Seald, when I was at Wifehall, my Servant Hunt deliver'd me 200 l. from Sir George Reynell, my near Ally, to be bestowed upon Furniture of my House; adding farther, that he had received divers former Favours from me: And this was, as I verily think, before any Suit began. The King was receiv'd certain Penetante Lites: and tho' it were at New-Year's-Tide, it was too great a value for a New-Year's Gifts, tho', as I take it, nothing near the value mentioned in the Article.

To the twentieth Article of the Charge, viz. That he took of Pescove 100 l. without Interest, Security, or Time of Payment: I confefs and declare, that I received of Mr. Pescove 100 l. at Dover-house, at my first coming to the Seald, as a Prentice; at which time no Suit was begun: and at the Summer after I fent my then Servant Lifier to Mr. Reife, my good Friend and Neighbour, at St. Albeus, to use his means with Mr. Pescove (who was accounted a mony'd Man) for the borrowing of 500 l. and after by my Servant Hatchet, for borrowing of 500 more; which Mr. Reife procured, and told me at both times it should be without Interest, Script, or Note, and that I should take my own time for payment of it.

To the twenty-fifth Article of the Charge, viz. In the Caufe between Smitwicke and Welsh, he received from Smitwicke 200 l. which was receiv'd: I confefs and declare, that my Servant Hunt did, upon his Account, being my Receiver of the Fines upon original Wills, charge himself with 200 l. formerly received of Smitwicke, which after that I had underboath the nature of it, I ordered him to re-pay, and to deflate it out of his Accounts.

To the twenty-second Article of the Charge, viz. In the Caufe of Sir Henry Raffwel, he received Money from Raffwel, but it is not certain how much: I confefs and declare, that I received Money from my Servant Hunt, as from Mr. Raffwel, in a Particular; and whereas the Sum in the Article is indeed much larger, I confefs it to be 3 or 400 l. and it was about a Month after the Caufe was decreed; in which Decree I was asfifted by two of the Judges.

To the twenty-third Article of the Charge, viz. In the Caufe of Mr. Barker, the Lord Chancellor receiv'd from Barker 700 l. I confefs and declare, that the Sum mentioned in the Article was receiv'd from Mr. Barker some time after the Decree pass'd.

To the 24th, 25th, and 26th Articles of the Charge, viz. The being a Refence from his Majesty to his Lordship of a Business between the Grocers and the Apothecaries, the Lord Chancellor receiv'd of the Grocers 500 l. The 25th Article; In the same Caufe he receiv'd of the Apothecaries, that stood with the Grocers, a Taftor of Gold, worth between 4 and 500 l. and a Prefent of Ambergris. And the 26th Article; He receiv'd of a new Company of Apothecaries, that stood against the Grocers, 100 l.

To thefe I confefs and declare, That the several Sums from the three Parties were receiv'd; and for that it was no judicial Business, but a Concord of Composition between the Parties, and that as
Francis Lord Bacon, 18 Jan. 1.

I thought all had received good, and they were all three common Purfes, I thought it led me to the first matter to receive that they voluntarily presented; for if I had taken it in the nature of a corrupt Bribe, I knew it could not be concealed, because it means must be put to account to the three several Companies.

To the twenty-seventh Article of the Charge, viz. He took of the French Merchants 1000 L. to constrain the Vintners of London to take from them 1500 Tuns of Wine: To accomplish which he used very indirect means, by colour of his Office and Authority, without Bill or Suit depending, terrifying the Vintners by Threats and by Imposture of his Persons, to buy Wine, whereas if they had had no need nor use, or higher Rates than they were vendible:

I do confess and declare, that Sir Thomas Suttie did deal with me in behalf of the French Company, informing me that the Vintners, by combination, would not take off their Wines at any reasonable Prices; that it would destroy their Trade, and they had the Voyage for that Year; and that it was a fair Buife, and concerned the State: and I doubted not but I should receive thanks from the King, and Honour by it; and that they would gratify me with a thousand Pounds for my travail in it. Whereupon I treated between them by way of perusal, and to prevent any compliance, proposing such a Price as the Vintners might be gainers 6 l. in a Tun, as it was then maintaine untome. And after the Merchants petitioning to the King, and his Majesty recommending this Buife unto me as a Buife that concerns his Customs and the Navy, I dealt more earnestly and peremptorily in it, and, as I think, restrained in the Speaker’s hand for a day or two, for the most part that were the most skillful, and afterwards the Merchants presented me with 1000 l. out of their common Purse; and acknowledging themselves, that I had kept them from a kind of ruin, and still maintaining to me that the Vintners, if they were not unfortunately minded, had a very competent Gain. There are the Merits of the Cause, as it is then appearant to me.

To the twenty-eighth Article of the Charge, viz. The Lord Chancellor hath given way to great Exactions by his Servants, both in respect of private Seals, and otherwise for sealing of Inductions:

I confess it was a great Fault of neglect in me, that I look’d no better to my Servants.

This Declaration I have made to your Lordships with a sincere Mind, humbly craving, that if there should be any Miftake, your Lordships would impute it to want of memory, and not to any defect of mine to obscure Truth, or palliate any thing; for I do now again confess, that in the Points charged upon me, they should be taken as my self have declared them, there is a great deal of Corruption and Neglect, for which I am heartily sorry, and submit myself to the Judgment, Grace and Mercy of the Court.

For extermination, I will use none concerning the Matters themselves; only it may please your Lordships, out of your Nobleness, to cast your Eyes of Compaßion upon my Perfon and Estate: I was never noted for an avaricious Man, and the Apostle faith, that Covetousness is the Root of all Evil. I hope also that your Lordships do the rather find me in the State of Grace, for that in all these Particulars there are few or none that are not almost two Years old; whereas those, that have an Habit of Corruption, do commonly wax worse. So that it hath pleased God to prepare me by precedent Degrees of Amendment to my present Penitencie; And for my Eflate, it is so mean and poor, as my Care is now chiefly to satisfy my D. Bts.

And so fearing I have troubled your Lordships too long, I shall conclude with an humble Suit unto you, That if your Lordships proceed to Sentence, your Sentence may be not heavy to my ruin, but gracious, and mild with Mercy; and not only to, but that you would be noble Intercessors for me to his Majesty likewise, for his Grace and Favour.

Your Lordship’s most humble Servant and Suppliant,

The Lords having heard this Confession and Submission read, these Lords undernamed, viz. the Earl of Pembroke Lord Chamberlain, the Earl of Arundel, the Earl of Southampton, the Bishop of Durham, the Bishop of Winchester, the Bishop of Coventry and Lichfield; the Lord Wrottesley, the Lord Crawford, the Lord Sheffield, the Lord North, the Lord Chancellor, the Lord Hunsdon, were sent to him the said Lord Chancellor, and thowed him the said Confession, and told him, that the Lords do conceive it to be an ingenuous and full Confession; and demanded of him, whether it be his own Hand that is subscribed to the same, and whether he will sign to it or not. Unto which the said Lord Chancellor answer’d, My Lords, it is my Act, my Hand, my Heart; I beseech your Lordships to be merciful to a broken Reed. The which Answer being reported to the House, it was agreed by the House to move his Majesty to foqueries the Seal; and the Lords intreated the Prince’s Highness that he would be pleased to move the King; whereunto his Highness condescended. And the same Lords which went to take the Acknowledgment of the Lord Chancellor’s Hand, were appointed to attend the Prince to the King, with some other Lords added. And his Majesty did not only foqueries the Seal, but awarded a new Commission into the Lord Chief Justice, to execute the Place of the Chancellor, or Lord-Keeper.

This was on the 11th of May; And on Wednesday, the 2nd of May, the said Commission being read, their Lordships agreed to proceed to Sentience the Lord Chancellor to-morrow Morning. Wherefore the Gentleman-Uffer, and Servant at Arms, Attendants on the upper House, were commanded to go and summon him, the said Lord Chancellor, to appear in Person before their Lordships to-morrow Morning by nine of the Clock. And the said Servant at Arms was commanded to take his Mace with him, and to shew it unto his Lordship at the said Summons: But they found him sick in bed; and being summoned, he answered, that he was sick, and professed that he feigned not this for any Excuse, for if he had been well he would willingly have come.

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The Lords resolved to proceed notwithstanding against the said Lord Chancellor. And therefore on Thursday, the 3d of May, their Lordships sent their Message to the Commons to this purpose, viz. "That the Lords are ready to give Judgment against the Lord Viscount St. Albans, Lord Chancellor, if they, with their Speaker, will come to demand it. And the Commons being come, the Speaker came to the Bar; and, making three low Obeisances, said:

"The Knights, Citizens, and Burgesses of the Commons House of Parliament, having made Complaints unto your Lordships of many exorbitant Offences of Bribery and Corruption committed by the Lord Chancellor, understand that your Lordships are ready to give Judgment upon him for the same; Wherefore I, their Speaker, in their Name, do humbly demand, and pray Judgment against him the said Lord Chancellor, as the nature of his Offence and Demerits do require."

The Lord Chief Justice answered:
"Mr. Speaker, Upon complaint of the Commons against the Viscount St. Albans, Lord Chancellor, this High Court hath thereby, and by his own Confession, found him guilty of the Crimes and Corruptions complained of by the Commons, and of sundry other Crimes and Corruptions of like nature. And therefore this High Court having first summoned him to attend, and having his excuse of not attending, by reason of Infirmitie and Sickness, which he pretended was not feigned, or else he would most willingly have attended, doth nevertheless think fit to proceed to Judgment: And therefore this High Court doth adjudge"

"That he shall never sit in Parliament, nor come within the Verge of the Court."

"This is the Judgment and Resolution of this High Court."

Thus he loft the Privilege of his Peerage, and his Seal; and it was for some time doubtful, whether he should be allowed to retain his Titles of Honour, which was all he did, having only a poor empty Being left, which lasted not long with him, his Honour dying before him. The he was afterwards set at liberty, and had a Pension from the King, he was in great want to the very last, living obscurely in his Chambers at Gray's-Inn, where his lonely and deplorable Condition so wrought upon his melancholy Temper, that he pined away; and after all his height of Abundance was reduced to so low an Ebb, as to be denied Beer to quench his Thirst; for having a sickly Stomach, and not liking the Beer of the House, he sent now and then to Sir Fulke Greville, Lord Brooke, who liv'd in the Neighbourhood, for a Bottle of his Beer; and, after some grumbling, the Butler had Orders to deny him.

He died on the 9th of April, 1626. being Easter-day, early in the Morning, in the 66th Year of his Age, at the Earl of Arundel's House in High-gate, near London, to which Place he had causally repair'd about a Week before. The Diftemper of which he died was a gentle Fever, accidentally accompanied with a violent Cold; whereby the Defluxion of Rheum was so great upon his Breath, that he was quite suffocated.

He was buried in St. Michael's Church at St. Albans, being the Place directed for his Burial by his last Will, both because his Mother had been buried there before, and because it was the only Church then remaining within the Precincts of old Verulam; where he hath a Monument erected for him of white Marble, by Sir Thomas Mennyts, formerly his Lordship's Secretary, afterwards Clerk of the King's Privy-Council, with an Inscription compos'd by the famous Sir Henry Wotton.

D d 2 XXXI. The
XXXI. **The Trial of Mervin Lord Audley, Earl of Cattlehaven, for a Rape and Sodomy, on the 25th of April, 1631. 7 Car. I.**

HERE were three Indictments found at Salisbury in Wiltshire against the Earl, the Wednesday preceding Easter, before the Lord Chief Justice Hyde, the Lord Chief Justice Richardson, and Baron Debnam, Justices of Althe for that Circuit, and special Commissioners in that matter. One Indictment was for a Rape upon his own Wife; for holding her by Force, while one of his Minions forcibly, against her Will, had carnal Knowledge of her: So that he was indicted as Presumtus, Actuatus, and Confrontatus; and therefore a Principal. The other two Indictments were for Buggery with a Man.

The Judges, on Friday Morning before the Trial, being bent for, all but Debnam being met at Serjeants-Inn in Fleet-street, their Questions were propounded to them by Sir Robert Heath, the King's Attorney-General; a Memorial of which a Learned Judge, Sir James Whitfield, one of the eight hereafter mentioned, set down in Writing, to the effect following.

1. Whether a Peer of the Realm might have his Trial by Peers, and plead he would be try'd by God and the Country?

**Aacy.** He might not: For his Trial by Peers was no Privilege, but the Law declared by Magna Charta; which if he would not plead to by a Trial of his Peers, it was flagging mure.

2. Whether a Peer might challenge his Peers, as in the case of common Jurats?

**Aacy.** He might not, (which I think is so, said that Judge) because they were not upon their Oath, but upon their Honour; and a Challenge is try'd whether he stands indifferent, as unworn.

3. Whether a Peer might not have Counsel any more than a Commoner?

**Aacy.** If Matter of Law appear'd, he might; not for Matter of Fact.

Certain Examinations having been taken by the Lords without an Oath, it was refer'd. Tho' could not be used until they were repeat'd upon Oath, unless of the Party to be try'd, which might be read without an Oath.

4. Whether the Wife in this Case might be a Witness against her Husband for the Rape?

**Aacy.** She might: For she was the Party wronged, otherwise she might be abjured. In like manner a Villain (Vadall) might be a Witness against his Lord in such Cases.

5. Whether, if he stood mute, he could demand his Clergy?

**Aacy.** If he stood mute in the Case of Rape or Buggery, he might have his Clergy in either.

6. Then if he might not be put to a Trial on the other Indictment, might not he be for a later Buggery, and be deny'd the Clergy?

**Aacy.** On that he might by 18 Eliz. 7.

7. Whether, in case one stood mute, Evidence might be open'd by the Court's Command concerning the Fact, 'tho' the Delinquent was to be prejudic'd to Death for his Contempt?

**Aacy.** That was a Matter which lay in the Discretion of the Court.

8. Whether in Cases wherein Clergy was allowable, the Party might pray it before he answer'd, and deny to answer otherwise?

**Aacy.** This was a Confession.

9. Whether in a Rape there must be Penetration?

The Answer was in the Affirmative.

10. The Prisoner having petition'd to be baul'd, whether it might not be granted?

**Aacy.** The King, as King, was to advise about it: The Judges acquainted the Lord Keeper he could not in Jurisprudence require it; yet he might be baul'd ex gratia, which was not fit in that odious Case.

At a Second Meeting of the Judges in Serjeants-Inn, there were other Things considered of concerning this Matter.

They made a Difference between Buggery and a Rape, in point of having the Clergy if he stood mute: For it was argued he might have his Clergy if he stood mute in a Rape, but not in Buggery; because by the Statute 25 Hen. 8, Buggery was made Felony, which by the Common Law was not. And in the very Creation of the Office, Clergy was taken away; whereas Clergy lay for a Rape until it was (should be) taken away by Statute.

It was concluded the Lords might eat and drink before they were agreed; but that they could not separate nor adjourn till they gave their Verdict: That this appeared out of the Lord's Decrees of Gregory's Cafe, who was 5 Kely. 56 try'd for Treason, and acquittance by his Peers in 26 Hen. 8.

It was agreed by the Justices in that Cafe of the Lord's Decrees, That Verdict could not be given by a lesser Number of Lords than Twelve; and that if twelve were for the King, and thirteen for the Prisoner,
for a Rape and Sodomy.

The Prifoner should be acquitted: That in an Appeal, if the Defendant should be mute, he should be hang'd; and it was an Attainder, it being not within the Statute of 

* S.P.C.Lib. 1631. 
3 c. 62. 

**Letters. No more was treason.

It was also agreed, That a Lord of Parliament was within the Statute of Wastewiuter 1. in case of Felony, and should be pres'd to Death.

Farther, That if the Lord Audley should have his Clergy upon his being mute, yet he might be try'd upon the other Indictments of Rape and Buggery, and should not have his Clergy, by the Statute of 18 Eiz. because the admitting him to his Clergy would be a Superfedeas to all Indictments of Offices within Clergy, not of those without, by that Statute: For by the Common Law, he that was admitted to his Clergy was discharg'd from answerings any other Offices; for by Indictment of that Law he was taken out of the power of the Secular Judge, and put into the hands of the Ordinary, whole Prifoner he was all his Life after.

It was refus'd, from the Lord Darre's Cafe, That the Lord Steward, after Verdict given, might take time to advise upon it, for any Point of Law; that his Office continued to him till his Judgment and Resolution; and it was but a Commission pro baco vice notwithstanding.

The Arraignment.

The Lord Coventry, Lord Keeper of the Great Seal of Eng'land, was appointed Lord High-Steward for that Day; who, having Orders for the said Trial from his Maj'ly, gave Directions for the fame.

The Lords the Peers took their Places about Eight o'clock in the Morning, and were seated on Benches on each side of a large Table, cover'd with Green Cloth; and below them were the Judges placed, and the King's learned Council, and the Officers of the Court. And having dis-pas'd of themselves in their several Places, the Lord Steward about Nine of the Clock enter'd the Hall uncover'd, with seven Maces carried before him by seven Sergeants at Arms, and was attended upon by Sir John Burroughs, Garter Principal King at Arms, and Mr. James Moxe, Uffier of the Black Rod.

After the Lord Steward had saluted all the Lords the Peers, (who saluted him again) he presently ascended the Table; and being seated in the Chair, he was presented with his Maj'ly's Commission by one of the Masters of the Chancery, which bore date the 17th of April, 1631.

After he had received the said Commission, he commanded an O 2 to be made, by one of the Sergeants at Arms, for a general Silence; and then deliver'd the said Commission to Sir Thomas Fewbax, Clerk of the Crown, to be openly read. Which being done, Mr. Maxwell kneel'd down and presented his Lordship with a White-Staff Verge of State, which he gave to one of the Sergeants at Arms, who held the same up by the Cloth of State on the Right-hand thereof. And after the Commission was read, and the Staff received as aforesaid, his Grace commanded a solemn O 2 to be made; and then gave leave to all the Lords the Peers, and the Judges, and to all Privy-Councellers there present, to be cover'd; and Command was given, that none under that Degree should keep on their Hats upon pain of Imprisonment. And then the Peers were severally called by their Names, and each of them answer'd particularly, viz.

1. Lord Welton, Lord High-Treasurer of Eng'land.
2. Earl of Manchester, Lord Privy-Seal.
3. Earl of Arrundel and Surrey, Earl Marshal.
5. Earl of Kent.
7. Earl of Bedford.
8. Earl of Effex.
10. Earl of Salisbury.
11. Earl of Leicester.
12. Earl of Warwick.
15. Earl of Berks.
17. Viscount Wintleton.
20. Viscount Wentworth.
22. Lord Strange.
23. Lord Clifford.
25. Lord North.
27. Lord Howard.

The Judges present.

Sir Nicholas Hyde, Lord Chief Justice of the King's Bench.
Sir Thomas Richardson, Lord Chief Justice of the Common-Pleas.
Sir Humphrey Davenport, Lord Chief Baron of the Exchequer.
Baron Denham, Judge Jones.
Judge Hutton, Judge Austwick, Judge Crose.

The King's Council.

Sir Robert Heath, Attorney-General.
Sir Richard Shelton, Solicitor-General.
Sir John Finch, Queen's Attorney-General.
Sir Thomas Crew, King's Serjeant at Law.

Officers of the Court.

Sir Thomas Fenshaw, Clerk of the Crown.
Mr. John Keeling, his Deputy or Afligate.

This done, the Lord Steward, after a solemn Precognition, commanded the Indictments to be certified and brought in; and then, by a Serjeant at Arms, the Lieutenant of the Tower was called to bring forth the Prifoner, (who until that time was kept in a little Room by the Common-Pleas) and the Lieutenant brought him to the Bar, with divers of the Guard attending on him, where he had a Place in manner of a Pew, lin'd with Green, in which he stood; and the Lieutenant had another of the same Form for him to ret in, adjoining to it. And when he had done his Obedience to the Lord.
Lord High-Steward and the Peers, (who all recalled him again) the Lord High-Steward spake to him in the manner following:

The Lord High Steward's Speech.

My Lord Audley,

THE King hath underthieved, both by Report and the Verdict of divers Gentlemen of Quality in your own Country, that you stand impeached of sundry Crimes of a most high and heinous nature; and to try whether they be true or not, and that Justice may be done accordingly, his Majesty brings you this day to your Trial, doing herein like the mighty King of Kings, in the 18th of Genesii, ver. 20, 21, who went down to see whether their Sins were grievous as the Cry of them: Because the Cry of Sodom and Gomorrah is great, and their Sins be grievous, I will go down (faith the Lord) and see whether they have done altogether according to the Cry of it. And kings on Earth can have no better Pattern to follow than the King of Heaven, and therefore our Sovereign Lord the King, God's Viceroy here on Earth, hath commanded that you shall be here tried this day, and to that end, hath caused the Peers to be assembled; and the Desire of his Majesty is, that your Trial shall be as equal as Equity and Justice itself, and therefore there noble Men your Peers (whole Hearts are as full of Integrity, Justice and Truth, as their Veins full of noble Blood) are this Day to try you. Wherefore, if you be innocent, speak boldly and confidently, and fear not to justify your self; and be affrighted that those who accuse you (if you be free your self) shall not escape free. But if you be guilty of those Crimes, I advise you to give Honour to God and the King, and confess your Fault; for it is not vain Confidence, nor Subterfug, nor standing out in Denial, that can hide the Truth; and all Subterfuges and Substitutes against it are but Coaxia adversus Dominum. Therefore, if Truth touch you at the Heart, and your Confidence, which is a thousand Wonders, and God's Grace, which is greater than both, stand not out against it: And if you do, God will put it into the Hearts of these noble Perfons to find it out, and to do that which is just.

The Lord Audley's Answer.

May it please your Grace,

I have been bade: Prisnor thefe Six Months, without Friends, without Counsel or Advice: I am ignorant of the Advantages and Disadvantages of the Law, and am but weak of Speech at the best, and therefore I defire to have the liberty of having Counsel to speak for me.

The Lord High Steward's Reply.

FOR your to long Imprisonment, it hath been to you a Special Favor; for you have had time enough to think on your self, and more than ever any Man had that hath been committed for such an Offence, and more Favor than ever any had that came to this Bar; and you shall demand nothing, which the Law can allow, but you shall have it. But for your Demand, I must move it to the Lords the Judges, and they shall satisfy you in it, or any other thing you desire.

Then his Grace defined to be resolved of the Judges, Whether this Demand of my Lord Audley, to have Counsel to plead for him, might be granted or not?

The Judges answered, That, in Criminal Cases, Counsel is not to be admitted for Matter of Fact; but for Matter of Law they may.

Then the Lord Steward proceeded to the Charge, commanded the three Indictments to be read by Sir Tho. Popham, Clerk of the Crown; one for Sodomy with Lawrence Fitz-Patrick, his Footman; the third for a Rape committed on his own Wife, the Counsellors of Cuffesson.

Then being asked, whether he was Guilty of them, or Not Guilty? He answered, Not Guilty.

Then he was asked, How he would бerry'd?

The Earl said, By God and my Peers.

Whereupon the Peers put off their Hats; and thereupon the Judge was joined.

The Lord High-Steward's Speech to the Lords.

My Lords,

THE Prisoner stands indicted for a Rape, by one Indictment, and of Sodomy by two; and he hath pleaded, Not Guilty to them all: It is my Duty to charge you with the Trial of it, and you are to judge of it.

The Offences wherewith he stands charged, are to be proved by Evidence; and the Crimes that come this Day before us, may in some breed Detraction, and the Petition of his Lordship in others may breed Contamination; I desire your Lordships to frustrate these two sides, and let your Reason sway your Judgment, and let that rule your Affections, and your Hearts your Heads; for neither of these ought to be put into the Balance, for a Grain on either side may sway the Scale. You are to give attentive Hearing, and then to weigh equally, that the Scale may lean the right way. The Judges will affix you in the Points of Law, which, if you doubt of, you are to expound it to me, and I to them. And this you are to do without Corporal Oath; for the Law concedes you of such Integrity, that you will do that for Justice, which others do upon their Oaths; and therefore admits of no Challenge: and God direct you to do as you ought.

Then Sir Tho. Cree gave the first Charge; and after him Mr. Attorney laid as followeth.

My Lord Steward,

MAY it please your Grace, there are three Indictments against Mervin Lord Audley; the first for a Rape, the other two for Sodomy.

The Perfon is honourable; the Crimes of which he is indicted dishonourable; which if it fall out to be true (which is to be left to Trial) I dare be bold to say, never Peer invented, nor Hirfiorian wrot of any Deed so foul. And although Suetonius hath curiously set out the Vices of some of the Emperors who had absolute Power, which might make them fearful of all manner of Punishment, and besides were Heathens, and knew not God; yet none of these came near this Lord's Crimes.
The one is a Crime, that I may speak it to the Honour of our Nation, is of such Variety, that we seldom or never knew of the like; but they are all of such a pestilential Nature, that, if be not punished, they will drawn from Heaven a heavy Judgment upon this Kingdom.

Whereupon (Mr. Attorney digressing from the Matter) the Lord Andley would have interrupted him, and require' th to hold him to the Points in the Indictments. But the Lord High Steward deh'd his Lordship to be patient, and afford him he should be heard in fit time at full. Whereupon Mr. Attorney proceeded again in his Charge as followeth:

May it please your Grace.

I can speak it with Joy and Comfort, that during all my Time of Service, both in his Majesty's Father's Time, and since he came to the Crown, I never had the like Occasion to speak in this place against a Peer of the Realm before now; and God knows I the Bible with Sorrow, and I hope I shall never have the like Occasion to do so much again. But his Majesty, who is the Pattern of Virtue, not only as King, but in his Person also, in whom it is hard to judge whether he most excels in Justice or Mercy, (but I rather think in Mercy) would have my Lord Andley the Prisoner at the Bar, heard with as much Favour as such a Crime can admit: and when he first heard of it, he gave strict Command, that the Truth should be search'd out, that his Throne and People might be clear'd from so heavy and heinous Sins; and thereupon he was indited in his own Country: according to the Law, and by Gentlemen of Worth and Quality. The Bill was found; and now he is personally brought to the Bar to be tried by those his honourable Peers, such of whose Wisdom and Sincerity there can be no question, but that he shall have just and honourable Trial. And first, I shall begin with the Indictment of Rape. Bræduu tells us of King Abell's Law before the Conquest: If the Party were of no estate, Life, but a servant, yet there may be a Favourment; but it is a good Plea to say the was his Concubine. In an Indictment of Rapes, there is no Time of Prosecution necessary; for in Latin Tempus accedit Regi: But in Case of an Appeal of Rapes, if the Woman did not prosecute in convenient Time, it will bar her. If a Man take away a Maid by Force, and ravish her, and afterwards give her Content and marry him, yet it is a Rape. For the Crimes Seducciones, our Law had no knowledge of it till the 26th of Hen. VIII. by which Statute it was made Felony: and in this there is no more Question, but only, whether it be Crimes Seducciones sine Penetratione; and the Law of 15 Eliza. fess it down in general Words: and where the Law doth not distinguish, neither must we. And I know you will be cautious how you will give the least Migration to so abominable a Sin, which brought such Plagues after it, as we may see in Gen. 17. Levit. 18. Judg. 19. Rot. 1. But (my Lord) it seem'd to me strange at the first, how a Nobleman of his Quality should fall to such abominable Sins; but when I found he had given himself over to Lust, and that Numa regents fil poff, and if once Men habit themselves in Ill, it is no marvel if they fall into any Sins, and that he was constant to no Religion, but in the Morning he would be a Papist and go to Malls, and in the Afternoon a Protestant and go to a Sermon: When I had consider'd their Things, I easily conceiv'd, and shall be bold to give your Grace a Reason why he became so ill: He believ'd not God, he had not the least seed of God before his Eyes; he left God, and God left him to his own Wickedness: and what may not a Man run into? What Sin is good, what Thing to odious, which he dares not adventure? But I find in him Things beyond all Imagination: for I find his ill Imagination and Intemperie bent to have his Wife taught with the wickedlest Man that ever I heard of before: for who would not have his Wife virtuous and good, how far better himself be? And I find him Bawd to his own Wife. If the loved him, the must love the Wife, (whom he honour'd above all) and not any honest Love, but in a dishonest Love; and he gives his Reason by Scripture, She was ever made Joist to him; and therefore if the child ill at his Command, it was not his Fault but his, and he would answer it. His regular Bounty toward Skipzish was also remarkable. He lets this Skipzish (whom he calls his Favourite) spend of his Purse 5 0 l. per Annun.; and if his Wife or Daughter would have any thing, tho' never so necessary, they must lie with Skipzish, and have it from him, and not otherwise; also telling Skipzish and his Daughter-in-Law, he had rather have a Child by him than any other. But for these Things, I had rather they should come of the Witreks Mouths than from me: and thereupon deh'd that the Proofs might be read. The Disputation of Walter Bigg.

Walter Bigg depo'd, That Ampil was a Page to Sir H. Smith, and had no more Means when he came to my Lord Andley, but the Mare he rode on. He entertain'd him as his Page eight Years, and afterwards let him keep Horses in my Lord's Grounds, by which I think he enrich'd him self 2000 l. but he never sat at Table with my Lord 'till he had marry'd his Daughter, and then he gave him to the Value of 7000 l. That Skipzish was sent from Ireland to be my Lady's Page; and that his Father and Mother were very poor Folks there. He spent of my Lord's Purse per Annun. 500 l. and he gave him at one time 1000 l. and hath made divers Deals of Land unto him. My Lord was first a Protestant; but after, by buying of Fauclit, he turn'd his Religion. That Henry Skipzish had no Means when he came to him, and that he had given him 1000 l. and that Skipzish lay with him when he was fratred in Rooms; and that he gave a Farm of 100 l. per Annun to Ampil that married his Daughter, and at other times to the value of 7000 l. and that there was one Blainz in his Hous fourteen Days, and bellow'd an ill Diseafe there, and therefore he sent her away.

The Lord Andley's Examination taken before the Lord Keeper, Lord Treasurer, Lord Marchall, and others; which being shew'd to him, he believ'd it with his own Hand, he would not acknowledge, but excus'd it, saying his Eyes were bad; but being perfectly read, he acknowledg'd it.
My Lord-Steward's Advice to my Lord Audley.

My Lord,
I would advise you not to judge the things which are clearly proved; for then the Lords will give no credit to the rest you say.

The Countess of Cathalbaven's Examination.

That shortly after the Earl marry'd her, viz. the first or second Night, Auptil came to the Bed's side, while she and her Husband were in Bed, and the Lord Audley spake lasciviously to her, and told her, That now her Body was his, and that if she love him she must leave Auptil; and that if she lay with any other Man with his Consent, it was not her Fault, but his, and that if it was his Will to have it so, she must obey, and do it.

That he attempted to draw her to lie with his Servant Skipworth; and that Skipworth made him believe he did, but did not.

That he would make Skipworth come naked into his Chamber, and delighted in calling up his Servants to wheed their Privacies; and would make their book open, and commended those that had the largest.

That one Night, being a-bed with her at Founthill, he call'd for his Man Bradock, and commanded him to lie at his Bed's Feet; and about Midnight (the being asleep) called him to light a Pipe of Tobacco. Bradock roe in his Shirt, and my Lord pull'd him into Bed to him and her, and made him lie next to her; and Bradock lay with her, and knew her carnally, whilst the made Resistance, and the Lord held both her Hands, and one of her Legs the while: and that as soon as she was free, he would have kill'd herself with a Knife, but that Bradock forcibly took the Knife from her and broke it; and before that Act of Bradock, he had never done it.

That he delighted to lie the Act done; and made Skipworth to come in Bed with them, and lie with her whilst he might see it; and she cry'd out to have saw her self.

Then Lawrence Fitz-Patrick was produc'd; but before his Examination was read, the Earl declar'd that neither he, nor any other, might be allow'd Witness against him, until he had taken the Oath of Allegiance. This was refer'd to the Lords the Judges.

The Judges resolve against him, that they might be Witnesses, unless they were convicted Recusants.

The Examination of Fitz-Patrick was then read, the Truth of which he was again confirm'd upon Oath.

Then Skipworth was produc'd and sworn, and his Examination read, which he again confirm'd upon Oath, and depos'd, viz.

That the Earl often solicit'd him to lie with the young Lady, and persuad'd her to love him; and to draw her thitherunto, he urg'd that his Son lov'd her not; and that in the end he usually lay with the young Lady, and that there was Love between them both before and after; and that my Lord said, he would rather have a Boy of his begotten than any other; and that he was but twelve years of Age when he first lay with her, and that he could not enter her Body without Art; and that the Lord Audley fetch'd Oil to open her Body, but the cry'd out, and he could not enter; and then the Earl appoin'ted Oil the second time; and then Skipworth enter'd her Body, and he knew her carnally; and that my Lord made him lie with his own Lady, but he knew her not, but told his Lord he did.

That he spent 500 l. per Ann. of the Lord's Purse, and for the most part, he lay with the said Earl.

That the Earl gave him his House at Salisbury, and a Manner of 600 l. per Annum.

That Blundina lay in the Earl's House half a year, and was a common Whore.

Fitz-Patrick's Second Examination.

That the Lord Audley made him lie with him at Founthill, and at Salisbury, and once in the Bed, and emitted between his Thighs, but did not penetrate his Body; and that he heard he did so with others.

That Skipworth lay with the young Lady often, and ordinarily; and that the Earl knew it, and encourag'd him in it, and wish'd to have a Boy by him and the young Lady.

That Blundina liv'd half a year in my Lord's House, and was a common Whore.

Edmund Scott's Examination.

He deposeth, That Skipworth frequently knew the young Lady, and that the Earl knew it, and encourag'd him therein.

Fry's Examination.

That Henry Skipworth and the young Lady lay often together, and the Earl in Company; and that then the Earl protest'd, that he would fain have a Boy of his begotinge.

Then was read the young Lady Audley's Examination.

That she was married to her Husband by a Romish Priest in the Morning, and at Night by a Prebend at Kilkeny; that she was first temp'd to lie with Skipworth by the Earl's Allurements; and that she had no Means but what she had from Skipworth; but she would not lie with Forest; he follow'd her also to lie with one Green.

That the Earl himself saw her and Skipworth lie together divers times; and nine Servants of the House had also seen it.

When
&d Sodomy.

When the Earl follicked her first, he said, that upon his Knowledge her Husband lov'd her not; and threatened, that he would turn her out of doors, if she did not lie with Skiptoith; and that if she did not, he would tell her Husband he did.

But in that she being very young, he ufed Oil to enter her Body first: and afterwards he usually lay with her, and it was with the Earl's Privity and Consent.

Brodway's Examination, who confesseth,

That he lay at the Earl's Bed's Feet, and one Night the Earl call'd him to him for Tobacco; and as he brought it in his Shirt, he caught hold of him, and bid him come to Bed, which he refused; but to satisfy my Lord, at last he confounded, and came into the Bed on my Lord's Side: then my Lord turn'd him upon his Wife, and bid him lie with her, which he did; and the Earl held one of her Legs and both her Hands, and at the last (not withstanding her Ruffinates) lay with her.

The the Earl ufed his Body as the Body of a Woman, but never pier'd it, only emited between his Thighs.

He hath seen Skiptoith lie with the young Lady in Bed together; and when he had got upon her, the Earl stood by and encouraged him to get her with Child: and that he had made him the said Broadway kiss his own Lady, and often follicked him to live with her, telling him, that he himself should not lie long, and that it might be his Making; and that he had saith thelice to Skip-toith.

The Earl's Jecocid Examination.

The Earl declar'd to be pardon'd of those Things, whereof he must accuse himself, and said, That Condemnation would not come out of it in even Month.

These Testimonies being read, Mr. Attorney prckt'd things very cannyly, and in excellent Method against the Earl, and said,

My Lords,

1. You have seen the Cleanseis of the Proofs, and I know your Williness be such, as you well know in fo dark a Business clearer Proofs cannot possibly be had; for let a Man be never so wicked, or never so impudent, he will not call Witnesseis to fce his Wickednesseis: yet you fee here this Point fully prov'd.

Then he shew'd how both the Laws of God and Man were against Sodomy, and cited Levit. 18. towards the end, That by these Abominations the Land is defil'd, and therefore the Lord doth affix this Land for the Iniquity thereof. And then concludes; That God may remove and take away from us his Pages, let this wicked Man (kith he) be taken away from amongst us.

Then the Earl (after the Lord Steward had told him he should be heard in his own Defence, with as much Patience as was admitted in his Charge) enter'd into his own Defence. But the Lord Steward advis'd him to speak pertinently; whereupon he alleged, that he was a weak Man, and of ill Memory, and therefore declar'd that he might not be interrupted.

I. Then he began his Defence with Exceptions against his Wife, urging, that she was naught and dill'honest with Brodway, by her own Conscion;

Whereupon my Lord Steward answer'd, That this made against his Lordship; therefore he ought not to broach for his Defence that Ear', as an Imputation to his Wife, which he for'd her unto by Compulsion and Violence.

II. Then he objected against the Incompetency of the Witnisses, as the one his Wife, the other his Servants; and they draw to this by his Son's Practice, who fought his Life: and declar'd to know, if there were not a Statute against the Incompetency of Witnisses?

The Judges resolve'd him, that there was none touching Witnisses; but in Cases of High-Treason, there was a Statute concerning Accusers.

III. Then he declar'd to be resolve'd, whether, because Brodway doth not depose any Penetration, but only that he emitted upon her Belly while the Earl held her, that should be judged a Felony for a Rape?

The Judges resolve'd it to be a Rape, and consequently to be Felony.

IV. Then he declar'd to be resolve'd, whether his Wife is to be allow'd a competent Witnisse against him, or not?

The Judges resolve, That in Civil Cases the Wife may not; but in a Criminal Cause of this nature, where the Wife is the Party griev'd, and on whom the Crime is committed, the is to be admitted a Witnisse against her Husband,

Then the Lord High Steward declar'd the Lords the Judges to resolve the Questions which Mr. Attorney in his Charge submitted and referred to their Judgments.

1. Whether it were to be accounted Biggery within the Statute, without Penetration?

The Judges resolve, that it was; and that the Use of the Body, so far as to emit thereupon, makes it so.

2. Whether, it being prov'd that the Party ravish'd were of evil Fame, and of an unchaite Life, it will amount to a Rape?

The Judges resolve it to be a Rape, tho' committed on the Body of a common Strumpet; for it is the inflicting against the Will which makes the Rape; and a common Whore may be ravish'd against her Will, and it is Felony to do it.

3. Whether it is adjudg'd a Rape, when the Woman complaineth not presently? And, whether there be a Necelity of Accusation within a convenient time, as within twenty four Hours?

The Judges resolve, That inanimate as the was forc'd against her Will, and then this'd her Diflike, she was not limited to any time for her Complaint; and that in an Indiscourse, there is no Limitation of Time, but in an Appeal there is.

4. Whether Men of no Worth shall be allow'd sufficient Proofs against a Baron, or not?
The Judges resolve, that any Man is a sufficient Witnes in cafe of Felony.

Then the Lord Steward spake, and said; My Lord, you have been graciously dealt with in this Proceeding, for it is not an utial thing in so capital and heinous Causes as this, to bring the Party and Witneses Face to Face before Trial: but (my Lord) you have long before this time heard their Examination, and question’d and oppos’d them Face to Face; and are thereby the better enabled to make your Defence; and his Majesty is still graciously pleas’d to consider his Goodness towards you, and hath commanded that you should be heard at full: If therefore you have any thing els to say for your self, speak it.

Whereupon the Earl answered, (having first made a solemn Protestation of his Innocency, but nevertheless implo’d the Mercy of God and the King) That he had nothing more to say, but left himself to God and his Peers, and preferred to their Consideration three Woe’s:

1. Woe to that Man, whose Wife should be a Witnes against him!
2. Woe to that Man, whose Son should perforce cut him, and confire his Death!
3. Woe to that Man, whose Servants should be allow’d Witneses to take away his Life!

And he willed the Lords to take this into their Consideration; for it might be some of their Cafes, or the Cafe of any Gentleman of Worth, that keeps a Footman, or other, whose Wife is weary of her Husband, or his Son arriv’d to full Age, that would draw his Servants to confire his Father’s Death.

He said further, his Wife had been taught in his Absence, and had had a Child, which he conceiv’d to save her Honour.

That his Son was now become 21 Years old, and he himself old and decay’d; and the one would have his Lands, and the other a young Husband: and therefore, by the Testimony of them, and their Servants addrest to their own, they had plotted and confired his Suicide and Death.

And then (being therunto required by the Lord Steward) he withdrew himself from the Bar.

Then the Lord Steward (after a solemn Proclamation of Silence) address’d himself to the Lords, and said: My Lords the Peers, your Lordships have heard the Proof, the Prisoner’s Defence, all his Doubts and Questions refur’d by the Lords the Judges; and therefore your Lordships (if you please) may withdraw your selves, if you are satisfied; because the Prisoner is not to be called to the Bar again, until your Lordships are agreed upon the Verdict.

Then the Peers withdrew themselves; and after two Hours Debate, and several Advices and Conferences with the Lord Chief Justice, whom they sent for, and consulted with several times; having in that time also sent the Earl of Warwicke, and Viscount of Dorchester, together with the Lord Chief Justice, to consult with the Lord Steward, at the last they return’d to their Places; and then the Lord Steward asked them by one, beginning at the lowest, and so ascending;

1. Whether the said Earl of Castletown was Guilty of the Rape whereof he stood indicted, or not? And they all gave him guilty.
2. Whether the said Earl of Castletown was Guilty of the Sedemy with which he was charged, or not? And fifteen of the Lords condemned him, and the other twelve freed him.

When the Verdict was thus given, the Lieutenant of the Tower was again commanded to bring the Prisoner to the Bar, to hear his Sentence; and after he was brought in, the Lord Steward said unto him:

Forasmuch as thou Mervin Lord Audley, Earl of Castletown hast been indicted for divers Felonies, by three several Indictments; one for a Rape, the other two for Sedemy; and hast pleaded Not Guilty to them all, and for thy Trial thou hast put thy self upon God and thy Peers; which Trial thou hast had, and they found thee guilty of them all: What can’t thou say for thy child, why the Sentence of Death should not be pronounced against thee?

Whereupon he answered, He could say no more, but referred himself to God and the King’s Mercy.

Then the Lord Steward said, My Heart grieves for that which my Tongue must utter; but Justice is the way to cut off Wickedness, and therefore hear thy Sentence.

Thou must go from hence to the Prison from whence thou camest, and from thence to the Place of Execution, there to be hang’d by the Neck till thou be dead, and the Lord have Mercy on thy Soul.

The Lord Steward’s Exhortation.

Oh think upon your Offences which are so heinous and so horrid, that a Christian Man ought scarce to name them, and such as the deprav’d Nature of Man (which of itself carries a Man to all Sin) abhorrest! And you have not only offended against Nature, but the Rape of a Man’s Jealouy! And, altho’ you die not for that, that you have abused your own Daughter! And having both Honour and Fortune to leave behind you, you would have had the impos’d and spurious Off-spring of a Harlot to inherit! Both those are horrid Crimes. But my Lord, it grieves me to thee stand out against the Truth so apparent; and therefore I will conclude with this Admonition, That God might have taken you away when you were blinded in your Sin, and therefore hope he hath referred you as a Subject of his Mercy; and as he sends you to see this Day of Shame, that you may return unto him, so thereby in a manner he lovingly draws you to him: therefore spend the remainder of your Time in Tears and Repentance; and this Day’s Work, I hope, will be a Correction from many Crimes and Corruptions.

Whereupon, at last, the Earl defended to a low Petition to the Lords, and very humbly besought them to intercede with his Majesty, that he might not suddenly cut him off, but give him Time of Repentance. And then he dehired their Lordships Pardons, in that he had been so great a Stain to Honour and Nobility.

Then a Proclamation being made by a Serjeant, declaring, That the Lord High Steward’s Pliature that would such as had offended this Day’s Service might depart; the Lieutenant of the Tower carried the Earl away, and the Court broke up.
for a Rape and Sodomy.

N purvuee before the Sentence, a Warrant was is
fued for his Execution upon Saturday the 14t
of May following; Notice whereof was given him,
and his Coffin carried into the Tower about a
Week before, that he might the better prepare him-
sity for Death: The Dean of Paul's, Doctor Wi-
nefs, failed not daily to visit him, and to see how
he staid, and to ferfe him in his Religion.

Being brought to the Scaffold, attended by the
Dean of Paul's and Dr. Wickehn, together with
his Servants, he faluted the noble Personages, and
whole Affembly, throwing to them all a very noble,
manly and chearful Countenance, such as seemed
no ways daunted with the fear of Death. After a
short while showing himself to the People, he
addressed himself to Prayer, the Deans accompa-
nyming him in that Exercise, but somewhat apart;
which being not long, he staid upon his Legs,
and leaned upon the two Deans, conferring with
them. Then he turned to the Lords, and spake to
this Effect:

* I acknowledge with Thankfulness the great
  Goodness of Almighty God, that it hath pleas-
  sed his Divine Majesty to bestow on me many
  Endowments, as Honour, Riches, and the like,
  which I have mis-spent; having been a vicious
  Liver, and justly derev'd Death, for as much,
  and in that the least Sin at God's hands justly
  dereveth Death, and no less; but for the two
  heinous Crimes with which I am branded, con-
  demned, and here to suffer for, I do hereby
  them upon my Death, freely forgiving those
  that have accused me, and have been the Oc-
  cafon of my Death, even as freely as I my self
  do deire Forgivenes at God's hands, which I
  hope to obtain thro' his infinite Goodness and
  Mercy: and somewhat the rather, by your
  Christian Prayers, which I expect, and humbly
  beg of your Lordships and this whole Affem-
  bly. Now for as much as there hath been
  Speech and Rumour of my Untitledness in my
  Religion, I have, for Explanation thereof, not
  only made Confession of my Faith to the two
  worthy Doctors, but for better Satisfaction to the
  World in that Point, express the same in Writ-
  ing under my Hand signed; which as it is here
  set down, I desire may be publicly read.

The Confession of his Faith then was read by a
young Gentleman, with a loud Voice, wherein he
proceeded: * I acknowledge
  the great Justice and Mercy of the King's Ma-
  jesty; his Justice in bringing me to the Bar;
  and his Mercy in affording me such a noble and
  gracious Trial there; and I give his Majesty
  humble and hearty Thanks for assigning my
  Death to be in this Manner, contrary to the
  Sentence pronounced against me at my Arraign-
  ment. But there is a greater Favour than this,
  for which I am to render Thanks unto his Sa-
  cred Majesty, and that is, the long time I have
  had to repent in; whereof (praised be Almighty
  God) I can speak with Comfort, I have made
  good Use, and am now fully prepared for Death,
  and much the better, by the good Help and In-
  struction of these two worthy Men, to whom I
  acknowledge my fault bounden, and do here, be-
  fore you all, give them hearty Thanks for their
  great Pains taken in coming to me, praying for
  me, and preaching and reading to me.

* And I desire your Lordships to present my
  humble Acknowledgment to his Majesty, for
  his Goodness in sending them to me, and my
  Thanks for the same.

* I do also from my Heart desire and beseech
  Almighty God to bless the King's Majesty, the
  Queen, and the young Prince, together with
  all such other Illie as he shall hereafter in Mer-
  cy bestow on them, and the whole State; and
  my Trust and Deire is, there may be ever one
  of their Line to sway the Scepter of these Kings;
  doms to the World's end.

* And I beseech, and do heartily pray for the
  Welfare and happy Prosperity of the King and
  Queen of Bohemia, with all their Principy Illie.

* I do again desire your Lordships to make Ten-
  der of my humble Acknowledgment of his Mer-
  cy and Goodness.

* And now lastly, That you will not bend your
  Eyes to much upon me, as your Hands and
  Hearts to Heaven in Prayers for me; and so I
  take my last Farewel of your Lordships and the
  World.*

Then he went again to his private Prayers;
which being done, he prepar'd himself for Death,
swearing to shew the like Courage and Magnani-
metry which he had formerly done, unto the last:
but Sight of the Headman (whom yet he freely
forgave, and took him by the Hand, bidding him
do his Office manfully) together with the Appre-
ension of his near approaching End, made him
somewhat to clunge Colour, and shew some Signs
of trembling Pallion; for his Hands shook a little
in undoing his Band-Rings; which his Man per-
cieving, swept to him and helped him, as also off
with his Doublet. Then taking leave of the
Lords, the Doctors, and his Man, saying a
very short Prayer by himself, he pulled down his
Handkerchief over his Face, and laid his Head up-
on the Block; which was taken off at one Blow.

E e 2 XXXII. The
XXXII. The Trial of Lawrence Fitz-Patrick and Giles Brodway, two Servants of the before-mentioned Lord Audley, Earl of Castlehaven, at the King's-Bench, for a Rape and Sodomy, the 27th of June, 1631. Trin. 7 Car. I.

On Monday the 27th of June 1631, the Marshal of the King's-Bench brought Fitz-Patrick and Brodway to the Bar, where was a Jury of sufficient and able Wilthore Men, impanneled to go upon and try them. The Counsels of Castlehaven herself was in Court, to give Evidence against Brodway; and the came in upon the Instant, when the Lord Chief Justice demanded of her, Whether the Evidence she had formerly given at her Lord's Arraignment was true, and the full Matter of Charge she had then to deliver against the Prisoner? Whereunto the answer'd, It was.

My Lord said; Madam, you have sworn that Brodway, Prisoner at the Bar, hath lain with you by Force, which may be, and yet no Act committed: Did he enter your Body?

She said, That in her former Oath taken, when she testified he lay with her by Force, her Meaning was, that he had known her carnally, and that he did enter her Body.

Then was the wifred to look on the Prisoner; unto which Motion and Commandment the made a short Reply, That although she could not look on him, but with a kind of Indignation, and with Shame, in regard of that which had been offered unto her, and the suffer'd by him, yet the had so much Charity in her, and such Respect to God and his Truth, that he had deliver'd nothing for Maltre; and therefore hoped that her Oath and Evidence thereupon should be credited: and so declared to be believed and dismiit. Which being granted, the Departed with as much Privacy as might be into her Couch.

Fitz-Patrick being asked concerning his Guiltiness or Innocency, demanded, who were his Accusers? The Lord Chief Justice answer'd, You have accutted your self sufficiently. Fitz-Patrick replied, That he thought neither the Laws of the Kingdom required, nor was he bound to be the Deffion of himself; what Evidence he had formerly given, was for the King against the Earl, and no further.

The Lord Chief Justice replied, It was true, the Law did not oblige any Man to be his own Accuser; yet where his Testimony serv'd to take away one's Life, and made himcself guilty of the fame Crime, therein it should serve to cut him off also.

Then the Jury demanded of the Court Satisfaction concerning the Words of the Statute, which run, To charge him alone to be, and accounted a Felon in Law, that committed a Buggery with Male or Beast. (Of which Fact the late Earl was found guilty, and had suffered.)

The Lord Chief Justice replied, That forasmuch as every Accursary to a Felon is a Felon in Law; so he being a voluntary Profiteer, when he was not only of Understanding and Years to know the Hicoufibre of the Sin, but also of Strength to have withstood his Lord, he therefore was so far forth guilty.

Whereupon the Jury found the Bill, and the Sentence of Death was pass'd on them both; and they were deliver'd and committed to the Sheriff of Middlesex, who, after he had suffer'd them to have some Repaty at Mr. Hill's in the Palace-Yard, and Conference with their Friends, carried them to Neegeot, where they behav'd themselves civilly and religiously.

As soon as they were found Guilty, the Judge of the Court wrote this Letter to the Lord Keeper to prepare him for the King.

Right Honourable,

MAY it please your Lordship to be informed, That this day Giles Brodway and Lawrence Fitz-Patrick were tried before us in the King's-Bench, for the several Offences of Rape and Buggery, of which they were indicted, and they have received Judgment of Death: but we forbear awarding Execution, upon a Message sent from your Lordship by Sir Thomas Fanshaw, of his Majesty's Pleasure for the Stay of Execution, until further Direction from his Majesty: but conceiving there is great Caufe to put the Malfeasors to Execution, we thought it our Duty to acquaint your Lordship with the Fugitives of the Trial, that his Majesty by your Lordship's means being made acquainted therewith, may signify his further Pleasure.

Brodway, who was arraigned for the Rape, very impudently denied his own Confession, taken before the Lords the Peers in the Trial of my Lord Audley: He pretended he was amazed and knew not what he confessed; and professed himself guiltless, with great Excorcitations. He would not be satisfied, unless the Lady was produced Face to Face, which the was; who by her Oath, vow vove, falsify'd the Auditors, both concerning the Truth of the Fact and his own Impudence.

* Fitz-
Fitz-Patrick, who was arraigned for the Bug-gey, confessed his Examination to be true; but like one very ignorant, or rather felonious, would have the truth against the Lord Aldley, and not against himself, which was impossible: He pre-
tended he was promised Security from Danger, if he would testify against the Lord Aldley; and so fought to raise a Suspicion, as if he had been wrought upon, to be a Witness to bring the Lord Aldley to his End. They were both found guilty, to the full Satisfaction of all that were present; and we for our parts thought it to stand with the Honour of common Justice, that feeling their Testimony had been taken to bring a Fear of the Realm to his Death, for an Offence as much theirs as his, that they should as well suffer for it as he did, lest any Jealousy should arise about the Truth of the Fact, and the Justice of the Proceedings. But upon receipt of your Lordship's Meffage, we have flopt the Execution till his Majesty's further Pleasure be known; to which we shall humbly submit our selves, and rest At your Lordship's Command, N. Hyde, W. Jones, J. Whitlock, G. Coke.

The King by this means being truly informed how things flow, dignified his Pleasure, that they should be executed, but to have a Week's time for Repentance.

On Wednesday, the 6th of July 1631, they were brought to Tyburn; where, when the Executioner had tied the Halter about Fitz-Patrick's Neck, he said:

Forasmuch as I am here, and, as it were, upon the Infant to suffer Death, I define all loving Subjects and Members of the Church of Rome to pray for me. Then be proceeded to pray to our Saviour, his Mother, and the Saints; in which he was interrupted by some Gentlemen, who told him, that the Beginning of his Prayer was good, for that he offer'd it to Christ Jesus, in whom only Salvation is to be found; as for the Virgin Mary, and the Saints, they could do him no good. But notwithstanding he persever'd, saying, O yes, the blessed Virgin never forsook or faid any that trusted in, or called upon her; and therefore he would depend upon her and the rest of the Saints; and so proceeded to an Exhortation to Mr. Brodway, to cleave to the same Opinion, and die in the Roman Faith; for which to have done, he said, if he had it, he would give the whole World. Unto which Motion Brodway gave no Assent, or seemed not to regard it. Then he proceeded to shew how he had been examin'd by my Lord Chief Justice, touching the Corruptives of my Lord of Carlisle's Life, wherein he said he confess'd nothing to prejudice the said Earl.

That being within three days after sent for before the Lords of the Council, my Lord Dor-
set had entrapp'd and enthrall'd him to his De-
struction; for saying upon his Honour, and speaking it in the plural Number (as the Mouth of the whole Board) that whatsoever he de-
livered should no words prejudice himself, he

thereby got him to declare the Earl guilty of the Sin of Buggery; wherein himself being a Partake in the only Cause he came now to suffer Death for which his Lordship's Skill and Policy in fitting him, together with a Dispensation of his Promise and Oath, he freely forgave him; saying farther, the said Lord had done him no Wrong, because he therein was but an Infrumment to send him out of this World into a better. Then he demanded of the Company, if the Earl deny'd the Sin at his Death; and with'd my Lord had not (if he did) for it was too true; his Lordship had both bugg'd him, and he his Lordship. That it was true (for some private Discoverers) he bore a little Malice to the Earl and Skipwith, for which he ask'd God Forgivefulness. To this for Brodway, if he had done any thing to the Coun-
ters, he did it not out of his own ill corrupt Nature, but was provok'd and persuaded to it by the Earl.

He clear'd the young Lord, as never being any Occasion or Means of his Father's Death, in hiring, or persuading him to give Evidence, as he had done. He confess'd he had liv'd an ill Life, in that he had delighted in Drinking, Whoring, and all manner of Uncleanliness; but now, as he was heartily sorry, so he doubted not of Mercy of Almighty God, to pardon and forgive him all his Sins, and for the Merits and Mediation-fake of Christ Jesus, the blessed Virgin, and the Saints in Heaven.

That he had fallen or run into these Sins, (and especially that which he came to diz: for) by reason he had neglect'd, and not so duly, as he should have done, repair'd to his ghastly Father, to make Confession, and take Instruc-
tions from him. That after he did make Con-
feccion, and his Sins known to the Priest, he was not only sorry for them, but also refor'd never to come into my Lord's House again; but it was not the Devity, and because he was not fur-
in'd of another Place.

So turning again to Brodway, and persuading him to embrace the Romish Faith, wherein, as he perceived, his labour was in vain, so the Sheriff and other Perfons of Quality willed him to forbear, and shut up his Discourse, unless he had any thing more to say to the purpose. Whereupon, praying for the King, Queen and State, he betook himself to private Prayer, and therein for the most part continu'd to his Death.

Brodway came, (and as it was thought by the Company, a true Patient) and after fetching a deep Sigh at the sight of the Tree, he lift up his Eyes and Hands towards Heaven, making and saying to himself two short Prayers; so attending Fitz-Patrick's Discourse, he fat in private Meditation, often making it manifest he was in Prayer most of the time, and also rejocing at the Assembly's well wishing of him; for which he return'd Smiles and Thanks. His Time being come to flank up, and have the Halter put about his Neck, and so declare himfelf, he willingly suffer'd the one, and proceeded to the other. First asking Fitz-Patrick if he had done, he pull'd a Sheet of Paper out of his Pocket; which being writ broadways, he could not spread it to read, there-
fore desist'd to have his Hands untie'd; which was done, and he read it distinctly to the Assembly; the effect whereof was, to declare himself guilty,
in the sight of Almighty God, of Death and Damnation; for that he broke all the Commandments, in Thought, Word, and Deed, and sinned in pride of Life, lust of the Eye, conceit of his own Beauty, matchless Strength, and other natural Gifts, in defiance of Right, no pitying the Poor, unlawful Riches, not repairing to Sermons, not observing the Sabbath, &c. For all which and other his Sins whatsoever, he both deriv'd of, and trusted in God for; and, for the II. of the I. of our Saviour Christ Jesus, his bitter Death and Paffion. He express'd a strong Affiance, which his very Soul had, of Forgivness, in that, thro' the Ablution of the Holy Ghost, he had laid such hold on Christ as he had done. This Paper-writing contain'd his Confession and Prayer, also (as I remember) something of his tender Guiltines and Defect of Death, but not so much. Then delivering that to the Sheriff, he open'd a little Book, intituled, Learn to die, and desired the Company to join with him; so reading over three short Prayers, the last whereof was a Lay-prayer. Then, for Pardon, which Prayer he pronounced with great Comfort, at every Amen clapping himself on the Breast; he closed it up, and gave it to his godly Father, a Minister and Kinman of his, who came along with him on horseback close by the Carr. Then he pull'd out a little Paper, which contain'd a Prayer of his own making, and when he had read it, and every one join'd with him in the Amen, he commenced it also to the Sheriff; and then throwing away his Poly of Flowers, he rou'd himself, and said to this effect:—

Gentlemen, the true it is, what I formerly
had deliver'd touching my Guiltiness and Defect
of Death, my Meaning was, and is, only in
respect of my Sins toward God, and no further
for Break of the Laws of the Kingdom, then
only lying once with the Lady Caddefhowen, thro'
Persuasion of the Earl, who was then in Bed
with her, and using some Small Force for the
purpose, I did emit, but not penetrate her
Body. I came not to my Lord with a Defect
or Intent any ways to serve him, but was rather
inclined for the Sea; only Mr. Skipwith, who had
drawn me therewith for Society sake, and not
hesitating from my Friends concerning my intended
voyage, and being more kindly receiv'd
by the Earl than I look'd for, I flaid from
Week to Week, and Month to Month, con-
trary to my Intention. Then my Lord, making
me his Bed-fellow, did one Day, when Skipwith
was with him in the Garden, (but walking some-
what apart) break out in Speeches to me to this
purpose:Bradway, thou art young, lively, and
well-favour'd, and therefore canst not but pre-
val with any Woman thou attempts; whereas
for that I am old, and cannot live long,
my Wife wholy delighting in Luft, which I
am neither able nor willing to satisfie, thou
may'st do well to lie with her; and so pleasing
her, after my Death marry her, and thereby
raise thy Fortune. Fitz-Patrick knows my Lord
had follicl'd me again and again, hearing him
use this Language when we have been in Bed
together, and he lying at the Bed's Feet.'
Which to clear, he charg'd Fitz-Patrick to speak
his Knowledge; who reply'd, 'Twas true. Then
he was ask'd by one of the Lords, Whether, when
my Lord follicl'd him, my Lady deferr'd to know
her carnality? To whom he said, No, he
would not wrong her, tho' he latt'd him infinitely.
But, said he, I know well, if I were minded,
and able to prassfer, she would not say no; for
Mr. Skipwith and Amilful lay with her com-
monly.'

He add'd, 'That Skipwith confest'd to him,
that he had often known her, and gotten a Child
upon herself, which, like a wicked Woman,
had made away, which was the only and sole
Occasion he the said Skipwith now latt'd her, and
therefore had turn'd to but small advantage,
all which he prid'mt Skipwith would confess
upon his Oath. That the Countess was the
wicked'est Woman in the World, and had more
to answer for than any Woman that lived, as he
thought.' At which Words, that Lord which aff'd
him the former Quotation, said, Grow not into a Paffion,
Mr. Bradway, and speak nothing for Malice. He answer'd, 'God forbid I should, I am in
Charity with all living People, and do as freely
forgive my Lady Caddefhowen, as I do for my God,
to forgive me, but what I speak, is true, as I
for all the Children that resouled upon
me, and the Holy Ghost who sanctify'd me;
To whom be all Honour and Glory, now and
for evermore. Amen.'

Then he proceeded farther, and said, 'That
my Lord would have had him done it long be-
fore: for one Night coming to him to his Bed-
side, he caught him, and bid him come to Bed
to him and his Wife: that thereupon he made
him as if he would; but being got from him,
departed the Chamber, never intending to do so
fool a Deed; and that for the Reasons aforesaid.
He bid her of all Women Living. However,
that one time, satisfy my Lord's Defire, he
came to Bed to them, where (being gratify'd)
Nature provok'd him to a kind of Defire, and
he emit'ted, but did not enter her Body, as he
hoped for Salvation; that he never knew any
Woman carnally whil't he lived in my Lord's
Houle.

'That it was not his Intentions to bring to
fight either my Lord's or my Lady's Shame;
but that when he was upon his Oath he could
not speak the Truth, his Nature being ne-
cessary to Lying, or if it were in his Youth;
the good Correc'tion of his Parents had weanc'd
him from it, saying, that his Mother had often
told him the old Proverb, A Liar is worse than
a Thief; and he thought he had more Stripes for
that than all Faults else whatsoever: that he had,
as he hoped, spoke nothing of Moment-against
my Lord at his Arraignement; he could not now
remember every thing; if he had, he declar'd
pardon,' and for concluding his Speech, pre-
pared himself for Death, pulling out a laced
Handkerchief; and then he declar'd the Executioner to tie
it about his Head. Then pulling off his Garters,
and unbuttoning his Doublet, Mr. Goodwoods,
the Minster, ask'd him, if he would not have a Pfaim.
He said, Yes, with all my heart. Then he read the 143d Pfaim; which Mr. Bradway, pulling
up the Handkerchief, sung very cheerfully, never changing Colour at all. The Minster declar'd him to
make Confession of his Faith; so he pronou'd about the Belief.

Mr. Goodwood said, these are the Articles of the Christian Faith according to the Church of England,
into which you were bap'tized; pray signify whether
in that Faith you intend to die.' He said Yes; for there is no other Faith (as I suppose) in and

Proceedings against Henry Sherfield Esq., Recorder of Salisbury, for breaking a painted Glass-Window in the Church of St. Edmonds in the said City; the 6th of February 1632. 8 Car. I.

The Information was thus opened:

MR. Attorney hath exhibited an Information, in the Behalf of his Majesty, against Henry Sherfield Esq, an antient Bencher of Lincoln-Inn; for taking upon him, of his own Authority, to devote a Parith-Church in the City of New-Sarum, in the County of Wilts, and that in opposition to the Church Government, establisht by the Laws amongst us.

His Majesty's Attorney, in the said Information, feteth forth, that his Majesty is in his Kingdom, next under Christ, the Supreme Head: that all Churches are faced, and both founded and maintained by Regal and Sovereign Power; that no Subject can meddle with them, in doing any thing for their Ornament or Structure, without Licence of the Bishops in their several Dioceses, or the Ordinary for the Time being, who derive their Authority from the Sovereign Power.

That the Party Delinquent was an Inhabitant of the Parish of St. Edmonds, in the City of New Sarum.

That in the same Church was an antient and fair Window, containing a Description of the Creation: That in January, intestine Caroli, the Defendant, and some fashion Persons, intending to deface it, there met and agreed so to do.

The Bishop of Sarum commanded the contrary, and accordingly made a publick Aet thereof.

But in October following, he the said Defendant got the Keys of the Church, upon pretence to walk there, and then lock'd the Door, and contrary to the Bishop's Appointment, he beat down the said Window, and utterly defaced it; and when he had thus done, he did boast and glory in that he had so done, and reported that himself was a Defacer of Idolatry.

And for punishing of this great Crime is this Information exhibited, by his Majesty's Attorney in this honourable Court.

Mr. Hene. The Defendant humbly offers to the Consideration of this honourable Court, that he is aged, and has grey Hairs upon him.

That among all the Croffes of this Life hisidhero, he doth not account this the least.

That he is this Day not only suspected, but accused as an Enemy to his Majesty and his religious Government; and the Thing that he is especially accused and charged with, is, that of breaking the Glass Window, whereunto himself gave this Answer:

That in the Time of King Hen. III. this Church of St. Edmonds in Sarum was built, and that there was a College of Priests there; for there was an House adjoining, called the College to this Day.

That by the Acts in the Time of Hen. VIII. this College came to the Crown, and there remained until King James granted it to George and Lloyd, who afterwards granted the same to Bartholomew Tooke, and others, to the Use of the Parish of St. Edmonds, together with the Adowfon and free Disposition of the Vicaridge there, which they have by Grant from his said late Majesty King James.

And that he did conceive the said Church to be a Lay-Fee, yet he offereth this, that what he hath done, was not to usurp Authority over the Bishop of Sarum, nor in Opposition to his Majesty's Government: But the Parishioners, and such as are Vestry-men of the said Parish, have Time out of mind assembled, and met upon Occasions, in a Little Room called the Pyfry, in or near to the Church of St. Edmonds; and there they have used, Time out of mind, to make Orders, whereby new Windows have been made, divers Seats in the Church alter'd and new made, and many other Things done for Ornament, and otherwise, in the same; and this without any Order from the Bishop of Sarum, or any other Ordinary, for the Time being.

For this Window that is charged to contain the History of the Creation, he answereth that it is no true Relation, or Story of the Creation, in that true Manner as it is set down in the Book of Moses; but there are made and committed by the Workmen divers Falsities, and Absurdities in the painting of the same Window, as that he hath put the Form of a little old Man.
in a blue and red Coat, for God the Father, and
had made seven rich Pictures, whereas God is
but One in Deity: And in his Order of placing
the several Days Works of God in the Creation,
had placed them preposterously, the fourth
before the third; and that to be done on the fifth,
which was done on the sixth day; and in one
Place he had represented God the Father creating
the Sun and Moon with a pair of Companies in
his Hand, as if he had done it according to some
Geometrical Rules.

That this was not one of the greatest and fairest
Windows in the said Church, it contained only
four Lights; for the Cot at first in fitting it
up could not be more than forty Shillings:
And that which is broken is very little Damage
to the Window, and may be repaired for a
very little Cost.
He conceive, for his defacing of this profane
 Representation of God the Father, it is not so
heinous a Crime as deferves the Sentence of this
Honourable Court, and for his defence he faith,
That he hath for many Years past (be fetted down
for thirty Years past) been settled and reloved in his
Judgment, and that upon good and found
Authorities, (as he conceiveth) that it is utterly
unlawful to make any such Representation of God
the Father; and by such Authorities as were set
out and declared in the Time of Queen Elizabeth,and
otherwise, for the taking down and abolishing
superstitious Images and Pictures, especially in
the Churches.
He was thereupon the rather emboldened to
defere, and endeavour the taking away of the faid
Window; and because it had been a Caufe of
Idolatry plainly to some ignorant People. He
faith he was placed in the Church in such a Seat
as that the faid Window was always in his
Eye, during his Absence in the Church; and not
out of opposition to the King's Majesty, but
by special Order and Agreement of the
Veefry, about January 1639, (wherein it was ordered that
Mr. Sherfield might, if he thought fit, take down
the faid Window, and fet up new Glaf for the
fafe) he thereupon did with his Staff pick out
some of the Glaf in that part of the Window
only which represented the Deity; but for the
doing the fame thro' Combination with others,
and by Force, he denieth the fame: And that
he should do it contrary, and against the Com-
mand of the faid Bishop of Sarum, and his faid
Act, and Letter supposed to be faire, this he also
denieth, and faith, that he had no Notice thereof
in any part.
And to all the rest of the M Failure of:

and Offences charged in the Information, he pleading
Not Guilty, and submitted himself to the Judg-
ment of this Honourable Court.

For the King.

* Sir Richard * Sol. Gen. For that divers Things
Shall not be fet forth in the Defendant's
Answer, which have not been opened; we that
are of Counsel for the King, desire that the An-
swer may be read; and the rather, because he hath
thereby confeded more than we have proved, or
indeed could prove against him.

Whereupon the Answer was read in effect as
followeth:
The Answer of Henry Sherfield of Lincoln-Inn,
in the County of Middlesex, Esq. to the Information
of Sir Robert Heath Kt. his Majesty's Attorney-
General.

All Advantages of exception to the Uncertain-
ties and Infufficiencies of the said Information to
this Defendant, now and at all Times faved:—
This Defendant faith, That K. II. 3. founded in
New Sarum the College of St. Edmonds, and
the Church thereunto belonging.

That there belonged unto the said College and
Church, a Provost and 13 Priests, which had
Maintenance there allowed them. That in the
Time of K. H. 8. by the Act of Dissolution, the
said College and Church, with the Revenue there-
of, came to the Crown, and fo terminate till
the time James Il., who granted the same to Gouge and
Lloyd, who alienated it to the Beffry, who conveyed the
whole Premises to Bartholewes Todey, one
of the Defendants named, who, in 13 Jacobi,
for many good Usfs, conveyed the fame to the Ufe
of the Parfioners of the fame Church.

That this Defendant is one of them, fo that the
Right of the said Church is in the said Parfioners,
who are feized thereof, as of their Lay-Rce; and
the said Church is exempt from the Jurisdiction of
the Bishop of Sarum; and that they, as lawful
Owners, had lawful Power without the Bishop to
take down or fet up any Window, and to do any other
Thing in Repairing, or Adorning the faid
Church, and for Reformation of such Things as
are amifs in the fame.

And that he, this Defendant, and the rest of
the Parfioners being Veefry-men, have met, and
have ufed to meet for a long while, and their Pre-
derceffors, Time out of mind, in the Veefry-house,
and there have made Orders for the taking down,
and setting up again, Parts of the Church.
They have taken down Glafs Windows, they have re-
moved Altars, Readoffes have been pulled down,
Seats pulled down and altered, the Pulpit taken
down and fet in another Place; and thefe
and many other Things without any special Licence of
the King's Majesty that now is, or of his Father
King James, or of John Lord Bishop of Sarum,
or of his Predecessors.

That at a Meeting of the faid Veefry-men of
the faid Parish, this Defendant being one of them, in
or about January 1639, it was ordered, that
this Defendant might, if he pleased, take down
the faid Glafs Window, being in the South-side of
the said Church, fo as at his own Cost and
Charges he would repair the fame with new plain
Glafs. And this Defendant being due to come to
Loudon, defir'd it should be done before his Re-
turn; and that the Glazier might not mistake the
Window, he pulled down with his Staff two or
three of the small Quarrels of Glafs, and so left it
to the Church-Wardens to be done.

That he is accused to be Oppofer of his
Majesty's Government, and of the Reverend Bi-
shopps; and this by the Procurement of those that
are ignorant of the Thing, which this Defendant
accuseth a very great Affezion.
He faith, That this Window, and the Painting
thereon, was not a true Representation of the
Creation; for that it contained divers Forms of
little old Men in blue and red Coats, and naked
in the Heads, Feet and Hands, for the Picture of
God the Father; and in one Place he is set forth
with a pair of Companies in his Hands, laying them
upon the Sun and Moon; and the Painter hath
set him forth creating the Birds on the third
Day, and hath placed the Picture of Beasts, and
Man and Woman, the Man a naked Man, and the Woman naked in some Part, as much as from the Knees upwards, rising out of the Man; and the seventh Day he therein hath represented the like Image of God, fitting down, taking his Rest: whereas this Defendant conceiveth this to be false, for there is but one God, and this represented seven Gods; and the Sun and Moon were not made on the third Day, but on the fourth Day; nor the Trees and Herbs on the fourth Day, but on the third Day; nor the Fowls on the sixth Day; and this was not created on the fifth, but on the sixth Day; nor did the Lord God so create Woman, as rising out of Man, but he took a Rib of the Man, when he was in a deep Sleep, and thereof made he the Woman, in all which the Workman was mistaken: in regard of which Satisfactions, this Defendant deemeth, that this was not a true Representation of the Creation, tho' it be so pretended, but rather an Abuse of the true and lively Word of God, which to pull down, as aforesaid, cannot be any Offence in him, this Defendant, as he conceiveth, at least in that Manner as in the Information it is pretended. But in as much as he is according to the Mediator and Image of God, and to be disaffected to the King, therefore this Defendant humbly craveth leave to declare his Opinion in the Thing itself.

And he faith, that he believeth it altogether unlawful to make the Representation of the true God in any Church, or Wall, or Window; and this he hopeth to make appear by the Scripture, by Orthodox Writers, Councils, and Decrees of Emperors, and by a certain Book of the new Bishop of Sarum (Dr. John Davenant) written on one of St. Paul's Epistles, in the 97th and 98th Pages, King James's Book, intituled his Prelection to all Christian Kings and Princes; the Book of House, set forth by Authority, and therein the Humility against Idolatry in particular: That this being false a Representation, and so profane a setting down of the Image of God the Father seven Times, he, this Defendant, being a Parionner, and troubled thereby in Conscience by the space of twenty Years, for that he could not come into the Church, but he must see it, setting right opposite to it, he was much grieved thereat, and with a long while that the same were removed, and yet in respect of himself labour'd still to disaffection his Thoughts; but seeing the Dihonour done to God thereby by some ignorant Persons, (as this Defendant was informed by the Parishioners of this Church) and fearing that others might offend in Idolatry, he (by Order of the Vehry aforesaid) did take down some little Quarts of the Window; and it was done by him only, without any Disturbance, and he did it only in such Places of the Glass as the Representation of the Deity so falsified was: He did it not to arrogate to himself Authority, but as bound to do what he did to prefer a good Conscience; it was not done riotously, nor by Combination with any others. And he faith, That he never deferred, nor will defer such a bitter Charge, as tho' the Malice of his Enemies, is laid upon him by the said Information. And he faith, that the Peers, and other of the great Subjects, were Judges of the Peace, and not altogether of the private Persons, and that they Parionneth, and committed, as aforesaid; and the taking down of the Window seemed to be warranted by the Statute of Edw. 6, and by the late Queen's Injunctions, set forth in Print in the first Year of her Reign, whereby it was commanded that all idolatrous and superstitious Pictures, Roodlopes, Altars, and other Relicks of Idolatry, especially in Churches, should be defaced and abolished, but the Wall preferred, and this to be done by the Church-Wardens; and these Injunctions being by Act of Parliament, they are still in force, as he conceiveth. And in the 13th of Elizabeth, in the Convocation held by the Archbishops, amongst other Canons, this for taking down and defacing idolatrous Pictures and Images was one, and made an Article, that the Church-Wardens shall inspect whether it be done accordingly: And the same order'd by the said Convocation, in the 1st of King James. He faith, That he doth not countenance any Contemners of the Church, nor ever did: That the painted Window aforesaid was one of the meanest Windows in the said Church, containing but four Lights, whereof all the Glass at first was worth but 40 s. and all that was taken down by this Defendant, was not worth more than 18 d.

And this Defendant denies that the Bishop of Sarum sent to him to forbid the taking of it down, and denies that he had any Notice by way of Act, Letter, or Mentioin to the contrary, or that any such came to his Hands. But this Defendant faith, that he often attended the Lord Bishop, as well upon this Defendant's own Business, as on the Bishop's Occasions; and yet his Lordship never used any Speech thereof to him at all. And therefore this Charge, that it was done by this Defendant against the Bishop's Directions, is not true, as will appear by Proof. But this Defendant doth aver, what he hath done is lawfully done; and to all other the Offences, &c. he pleadeth Not Guilty.

Sol. Gen. Here is a Confession of the Fact, and a Justification; and therefore we made no Examinations or Interrogatories; for as I said before, so I make bold to say again, that he hath confuted more than we could against him.

The Question is, Whether a Parionner may of himself undertake to pull down and set up what he conceiveth to be idolatrous, and fo take upon him to be a Reformer?

In this Gentleman's Answer, you see how curious he hath been in confusing the Painter that is dead a hundred Years ago. (Nay, it hath been there these three hundred Years, said the Archbishop of York.) From the 5th of January 1629, till October following, he could find no Opportunity to execute the Vehry's Order; and yet he faith, shortly after the Order, he did with his Staff take down one of the Windows, &c. Fifth, for the Manner of coming into the Church, we shall read a Witness or two for that.

Depositions of Witnesses on the King's Part read.

Bacon the Sexton's Wife faith, That Mr. Sherfield came unto her (her Husband not being at home) and said Woman, bring the Keys of the Church-door, and let me into the Church; whereupon the presently brought the Key, and opened one of the little Doors of the Church, and Mr. Sherfield went in, and made the Door fall unto him, and said there alone by himself.

That when he went into the Church, he said, Now Woman go about your Business, while I walk in the Church.
That thereupon she went into her Houfe, and after the had turned a little in her Houfe, her Child (that was abroad gathering of Sticks) came in, and brought her two or three Pieces of the Glaf Window, and faid it was done by a Man all in black. Thereupon they went to a private Door and looked into the Church, and faw Mr. Sherfclfl standing upon a Seat fome four Foot above the Ground, and fo he ftood breaking the Window with a black Staff with a Pike in the End of it.

That the Window was broken in eleven feveral Places. And after the went by the fame Window, and faw it broken; but being on the outfide, the door then fee it, and the head of one groan, which the converfion was Mr. Sherfield fallen from the Seat whereon he ftood, to the Ground. And she the rather believed it was Mr. Sherfield, becaufe he afterwards fent for a Horfe, and rode home.

That afterwards the Window was broken by another, and a Pitch-fork left in it; and divers other Windows were also broken, but by whom this Deponent knoweth not.

That therefore a Watch was fet, and continued for a Fortnight, to fee who should attempt to break any of the Windows of the faid Church.

Elizabeth Bowen, the Sexton's Daughter, faid, That Mr. Sherfield came to this Deponent's Mother, about three or four of the Clock in the Afternoon, a little after Michaelmas, and commanded her Mother to open the Church Door for him, and the did open it: when he was in the Church he faid, Get you about your Bufinefs; and when her little Brother brought in part of the Glas of the Window, faying, Somebody was within breaking some of the Windows of the Church, she then run out of her Father's Houfe and went unto the Church, and faw him beating of the Ladder, and heard him talk to himfelf, and thereupon faid to her Mother, That the thought Mr. Sherfield was mad.

That thereupon Mr. Sherfield came out of the Church, and went into the Clerk's Houfe; and after he had been there a little Space, he went again into the Church, and bolted the Door after him in the infide, but the repaired at the Door, and faw him break the Window with his black Staff, which had a Pike in the End of it.

That the Staff broke, and he fell down into the Seat, and lay there a Quarter of an Hour groaning; but what Hurt he had, he knoweth not.

That he afterwards kept his Houfe for a Month.

That the Window was broke afterwards, and other John Palmer faw them about four of the Clock in the Morning.

Dr. Webb of Steeple-Aifton faih, That Mr. Sherfield coming thither to keep a Court-Leet, he afterwards went with this Deponent into the Church of Steeple-Aifton to view it, and he afked this Deponent why they fhould allow fo much Colt in their Windows; and he declared his Diligence thereof, giving thefe Reasons, to wit, That it made the Windows darker; and it was an ocation of Idiocy; and he confidered with this Deponent about the Window now in question, which he faid he would have taken down; but the Bishop's Chancellor oppofed him, and faid, He knew no Caufe why he should, for that it was a Lay-fee.

John Lyminge of the City of New Sarum faith, That he had been thirty Years a Parishioner, and two Years ago he was Church-warden of the Parish of St. Edward's in the City of New Sarum; that then the Order was made, when he was Church-warden.

That he was preent in the Veltry at the making thereof.

That Mr. Sherfield moved the Matter to the refi that were preent, and they all confented thereunto, faying two, who faid, They defired to have the Lord Bishop's Leave for doing it. To whom Mr. Sherfield faid, Do not you trouble your felves, I will give my Lord Bishop Satisfaction.

That the Bishop afterwards fent for this Deponent, being then Church-warden, as aforesaid; and he went to his Lordship, who told this Deponent, He had heard of fuch an Order or Agreement to have been made at the Veltry, and ask'd this Deponent if it were fo? This Deponent anfwer'd, That it was fo: that thereupon the Lord Bishop faid, Let it not be done, and gave Directions and Commandment to this Deponent, not to give Notice of this Inhibition therein to the Clerk of the Veltry.

Francis Roberts, Serjeant to the Bishop's Regifter, faith, That an Agreement was brought to the Bishop under Mr. Sherfield's Hand, and the Hands of divers others, by Mr. Sherfield; and the Effect of the Order was (as he talkez it) for the taking down of the Window, in the South Porch of the Church of St. Edward's in the City of New Sarum.

That the Lord Bishop caufed this Deponent to take a Copy thereof, which he did; and thereupon the Church-wardens were fent for, and were tooled at the Bishop to put the fame in the Com- mission, and made a publick Act thereof, which this Deponent wrote.

It was urged by thofe of the King's Council, that the Anfwer was not in this rightly ordered, and was therefore one of the Reasons why they defired the Anfwer itfelf to be read. In the An- fwer he juftifieh the Act as well done; but the Council that opened the fame, did not fhew it fo to be.

Mr. Herne, In opening the Anfwer, we declaimed it as an Opinion of the Defendant, and from this a Man may recede: It was not the Point in Iffe, therefore we were advised not to fland upon it; and we do acknowledge the Church to be a parochial Church, and subject to the Bishop of Sarum.

Whereupon Sir John Finch defired that John Lyminge's Deploration might be read again, and it was read to this Purpofe.

That Mr. Sherfield faid he would satisfy the Bishop, urging that this was after the Bishop's In- habition; but this did not appear in the Court.

Sir John Finch concluded the Evidencce on the King's Part: the Question is not what is fit to be in a Church; The Matter is, that he hath taken upon him to determine what is ffit. He is an anfient Reader, and well read in the Law; but our Law faith, (and this every one knoweth, that hath fuch a leaf Sweetens from the Books of the Law) That the Church must be governed by the reverent Bishops of the Church. That it was a parochial Church he know well, for that himself was a Parishioner: and the Council declare this, yet his Defence is, that it is a Lay- Fee, and that he might well do as he did, to pull down
down the Window. He is well acquainted with the Bishop, and yet would never declare his Leave in taking it down; but he goeth to the Veftry for Power to do it, and yet there it is his own Motion; and when some question'd their own Power to do it, he beareth them in hand he will satisfy the Bishop. When he cometh to Sterns-Author to Dr. Webb, there he faith it is a Lay-nee; for he being a Juffer of Power, that seemeth to add another Wing to bear him up: But the Matter's not in question, it appertaineth to the ecclesiastical Jurisdiction. For the Bishop’s Inhibition, that Mr. Sherfild, being a Veftry-man, should not have Notice of this, is very improbable. If it had been done in execution of the Veftry’s Agreement, why then was it done so privately, and not some of the Veftry called to be with him? But to have the Doors shut, to do it with such Privacy and so many Colours, as reading in a Book in the Church, walking and viewing of the Clerk’s Houfe; this could not be but that he feared some thing, and that this was the Inhibition.

2dly. The Defect in the Proof of the King’s Part, that the Relator could not prove that Mr. Sherfild had Notice of the Bishop’s Inhibition: nay, he had not the Act of the Bishop, which was so easy to be had, to shew in Court, for which the Bishop of London was much displeased, and so was the Lord-Keeper.

To remedy this (if it might be) the * Bishop of London defined that Dr. Lynn Lord Bishop of Sarum’s Chancellor, who was the Relator in this Caufe, might be heard what he could say to this Point. And he was permitted to speak, yet could not directly lay that Mr. Sherfild had any Notice of the Bishop’s Inhibition: yet he mention’d a Letter that was sent to him to give him Notice of the Bishop’s Commands to the contrary, but it could not be proved that ever such Letter came to his Hands.

For the Defendant.

Mr. Herbert. That the Information contained seven several Charges against the Defendant, for five of which, that is to say,

1. That he being maliciously diﬀused, and diﬀected to his Majesty’s Government, on his own Authority took upon him to deﬂate the Parish Church of St. Edmonds’s in New Sarum.

2. That he is an Opposer of the Authority of the reverend Bishops and their Government.

3. That he is an Encourager and Maintainer of all such as are ill affected Peçons to their Government, and Contemners of their Authority.

4. That the deﬂation of the Window in question was done by Combination and Conﬁdence between him and ten others, Defendants.

5. That this was done riotously and routinely with Force and Arms. For all these I appeal to this honourable Court, what colour of Proof hath been made; only it hath been proved that the Defendant himself was look’d in a little of the Glass of that Window. And there hath been some offer of Proof made, that it was done against the Lord Bishop of Sarum’s Inhibition. And whereas the said Dr. Lynn, the said Bishop’s Chancellor, hath endeavoured to prove some Things out of Courte for this last Charge, we shall deﬁre and beære your Lordships to consider that he is the Profe- cutor of the Caufe against the Defendant. For the Manner of the Prosecution, it hath been very violent, injurious, and favourable of Malice. He was the Man that went to these Witnesses and forty other Perës, to raise up and frame a Charge upon the Defendant. He exhibits a foul Bill, or caueth the fame to be exhibited against the Defendant, and ten others. And then falleth off from all those Ten, and deﬁreth that Two of the Defendants might be Witnesses for him; and when he had thus done, never used them. And this, my Lord, hath been the Manner of Prosecution.

For the taking away of the Glafs-Window, it is true, we confeis we did take down part of the Glafs; but for the second Thing, it doth not appear that he had Notice of the Bishop’s Inhibition.

And whereas Sir John Finch hath inﬂicted upon some Probabilities for Proof hereof, we hope this Caufe shall not be sentenced according to Probabil- ities. Now tho’ the Charge of these ﬁve before-men- tion’d be not proved, nor any Interrogatory administered to prove them, yet we shall deﬁre Leave to offer our Proofs to the contrary to your Lordships Considerations.

And ﬁrst as to the Charge that we are ill affected to the Church-Government, and an En- couager of those that be like-minded, and in this for private Ends, and out of a private Spirit.

We answer, That Mr. Sherfild the Defendant hath on the contrary, in all his Actions, been con- formable to the Canons and Constitutions Ecclesi- astical, the Rites and Ceremonies of the Church of England.

That he hath been so far from encouraging such faulous Perçons, that he hath been very active in his Place to punish Separatists. And that he did not this (in removing this little Quantity of Glafs) of his own Head or private Spirit; but it is true, he conceived it to be Idolatrous, and so was it thought by the Pastor of the Church, and by all the Men of the Veftry thought fit to be removed. What we did therefore, was no way out of a singular or private Spirit, nor out of our Authority, but by Order from the Veftry; nor in opposition to the Church-Government, or Gover- nors; but as in repect to the Nature of the Thing. Besides, all the Canons, Constitutions, and Com- mands for taking away such superstitious and ido- latrous Relics, we shall prove, in Fact, there has been much Idolatry committed therewith. We say, that of a long Time there have been Meetings in the Veftry by some antient Men of the Parish, and this by Power from, and under the Ecclesiastical Governors, and this they have used to do, they have ordered many such Things, and they agreed this Window should be taken down by our own Mr. Sherfild, if he thought ﬁt, and to set up new Glafs. We go not about to entitle the Veftry to any Jurisdiction; we say they are respondent to the Bishop, and he may punish them if they abuse their Power: but tho’ they have not legally a Juris- diction, yet de facto they do meet, and do such Things, tho’ it be not justiﬁable; yet this is the Question before your Lordships. Whether tho’ of his Majesty’s learned Council can make it a Crime, 21st, or No? The Curate and Church-warkens all sorts are hereby inspired by the Statue.

The Queen’s Injuriousness to give Power to the Commissioners and others to take away Things of this Nature, especially in Churches, preferring the Walls, &c. So in the Articles let out in 13 Eliza. to inquire whether they were removed, Tea or No. Afterwards there was the like in the F 3 First
Proceedings against Henry Sherfield Esq.; 8 Car. I.

That he hath seen the said Window since it was broken, that the Story intended thereby to be let forth, may well enough be determined, and this, upon his certain knowledge, for he took Special Notice thereof, upon Saturday last, before his Examination; that there are no Letters in the Window aforesaid, describing the Representation of the Creation.

That it may be amended for a very small matter.

That it is not to good Word as some other Windows of the Church.

That he hath heretofore seen an Accomplice, made in the time of Henry VII. of Charges in setting up certain Windows in the said Church, which are all of painted Glass; and there was let down a Particular of 94 Foot of Glafs, let up at 34. ft. a Foot, and this Window in question contained 72 Foot of Glass or thereabouts.

Notes, That in the Time while this Deposition was reading, Mr. Sherfield cutted a Map of the said Window to be presented to the Lords, representing the said Window, and all the several Breakings of the same let forth in Colours like the Window it self, which was inspected by the Lords.

The Bishop of London at this Time took some Exception to the Testimony of the last Dependent, Peter Thatcher, for that he faith he kneweth not whether it was clothed to Church, and layeth there all the Time of divine Service; whereas he knoweth that this Thatcher himself hath not read all the divine Service in a whole Year together; he hath not done it heretofore, whatsoever of late he hath done for Ob-Repect.

Then proceeded the Deposition of the said Peter Thatcher.

That the Picture of the old Man in blue and red, is taken to be the Picture of God the Father, the Creator of Heaven and Earth; and that he is taken to be there represented creating the Birds and Beasts, the Sun and Moon, and speaking to Adam and Eve, &c.

That, as this Dependent taketh it, there are many Mistakes, Fallacies and Absurdities contained in the said Window.

That he saw Emma Bresow bowing to the Window aforesaid, on which Occasion (this Dependent coming in the mean while) he asked what was the Cause the he bowed. 'To which she answered, I do it to my Lord God.' Why, said this Dependent, what is he? Said the said Emma Bresow, In the Window, is he not? This Dependent thinketh he told this Defendant of the same, but done not remember the Time when.

Michael Mackerrill, of the City of New Sarum, Gent. faith, That he hath known Mr. Sherfield, the Defendant, by the space of twenty Years and more, during which Time he hath been conformable to the Church of England, and duly repatrieth to the Church and Saracram, &c. That this Dependent knoweth he hath called divers in question for their Inconformity, and divers have been accused for Ambassadors and Separatas before him, and other Justices of the Peace in the same City, and some of them were imprisoned, some bound to their good Behaviour, and some otherwise punished by his Means; and the Dependent fet down the Names of those who were called in question for Inconformity in particular.
James Palmer of the City of New Sarum, Senior, aged about 80 years, faith, That in the said Parish of St. Edmund's, for fifty years past, he had known divers of the Parishes to have met from time to time in the Vestry of the said Church, which is part of the same Church, or adjoining thenceunto; and they have order'd many things for Reparation of the said Church, without the Bishop of Sarum, or any of his Predecessors; and divers of the said Parishes, and have been called, and have been and are Vestry-men of the said Church, and they have done divers things in the Church without the Bishop's Leave, as namely, the Place of reading the Service was altered from out of the Choir, and appointed and order'd by them to be read in the Body of the Church, without Licence from the Bishop; and therefore the Parishes did not ask leave in this Cafe, of the Bishop, to remove the said Window.

The Bishop of London, Often Vestries take upon them that Authority which pertineth not unto them, and usually trangress their Bounds; they were made by the Bishops heretofore, where they are granted and suffered, and in many Cases, by the common Law, we cannot do without them. The Truth is, that the Archdeacon in every Dioce-. cese was wont to be magister Oeodius Episcopi, to view and inform the Bishop of the Things fit to be reformed. But you will say, Shall not those Men repair, nor do any thing in the Church without Leave? Yes, they may, but not doubtful things; therefore for such things they should ask Licence of the Bishop at their Parish.

The Lord Keeper, So, for mending of a Wall, or raising things, not well done in the Church, Vestry-men may do it; but when they do ill, they are to be punish'd.

February 8.

This Day the Defendant's Council proceed- ed in reading their Witnesses for their De- fence.

William Antopoll of the City of New Sarum, Gent., faith, That heretofore, about nine or ten Years since, he took Notice of one William Tranter, parson, who came as a Stranger into the Town; and this Deponent after understood his Name was Aldsoy.

That this Deponent hath observ'd the said William putting off his Hat to the said Window; and that the said William Tranter's Master, called Beale, did kneel down and pray before the Crucifix in one of the Windows.

This Deponent had Conference with the said William Tranter, and with his Master, the said Beale; and in their Talk they much commen- ded Pictures in Church Windows, and praised Bel- linius-Writes; wherefore this Deponent did conceive them both to be Ramish Recantats; And this Deponent saw the said Tranter kneeling and praying towards the said Window; and the said Beale kneeling before the Crucifix, beating his Breast, which this Deponent did conceive to be Idolatry.

Here the Defendant's Council offered to speak something to discharge the Defendant of that Point, as to the doing of the said Act contrary to the Lord Bishop of Sarum's Inhibition.

Whereunto Mr. Attorney said, That this was not worthy to be inquired on, because they had some short in Proof against him: But as for Mr. Chancellor's enquiring into the said Offence done, we conceive it was rightly done, and proper for him to do it; for that this Fact is of a mixt Cognizance, Ecclesiastical and Temporal; and therefore, he being an Ecclesiastical Officer, it was not a Fault, but a commendable thing in him industriously to enquire of the thing as he did, and it was his Duty to do it. And for the inquiring and pre-examining of the Witnesses, we say, in this Cafe by him it was lawfully done, and they were justly pre- pared.

The Defendant's Council proceed, and read divers Statutes and Proclamations, and other Re- cords and Authorities in justification of the De- fendant's Fact, as concerning the Nature of the thing.

And first was read the particular Injunction in the Point, set out in 1 Eliz. the 23d Article or In- junction; Church wardens are to fee the Churches kept clean, and all Loathsomebeed from Dust, or otherwize, removed; That they have in the Churches the holy Bible and Homilies, late feet out in print against Rebellion, and other outrageous Crimes.

That there be in every Church a fair joining Table, and a convenient Pulpin, &c. Also they shali see that all Shines, Coverings, and Candlesticks, Pictures, Pilgrimages, Relics of famed Miracles, Rolls of Wax, and Superstitious Things be taken away and defaced, preserving nevertheless the Walls of the Stone Buildings of the Windows.


This Day the Defendant's Council proceeded in reading their Witnesses for their Defense.

William Antopoll of the City of New Sarum, Gent., faith, That heretofore, about nine or ten Years since, he took Notice of one William Tranter, parson, who came as a Stranger into the Town; and this Deponent after understood his Name was Aldsoy.

That this Deponent hath observ'd the said William putting off his Hat to the said Window; and that the said William Tranter's Master, called Beale, did kneel down and pray before the Crucifix in one of the Windows.

This Deponent had Conference with the said William Tranter, and with his Master, the said Beale; and in their Talk they much commended Pictures in Church Windows, and praised Bellinius-Writes; wherefore this Deponent did conceive them both to be Ramish Recantats; And this Deponent saw the said Tranter kneeling and praying towards the said Window; and the said Beale kneeling before the Crucifix, beating his Breast, which this Deponent did conceive to be Idolatry.

Here the Defendant's Council offered to speak something to discharge the Defendant of that Point, as to the doing of the said Act contrary to the Lord Bishop of Sarum's Inhibition.

Whereunto Mr. Attorney said, That this was not worthy to be inquired on, because they had some short in Proof against him: But as for Mr. Chancellor's enquiring into the said Offence done, we conceive it was rightly done, and proper for him to do it; for that this Fact is of a mixt Cognizance, Ecclesiastical and Temporal; and therefore, he being an Ecclesiastical Officer, it was not a Fault, but a commendable thing in him industriously to enquire of the thing as he did, and it was his Duty to do it. And for the inquiring and pre-examining of the Witnesses, we say, in this Cafe by him it was lawfully done, and they were justly prepared.

The Defendant's Council proceed, and read divers Statutes and Proclamations, and other Records and Authorities in justification of the Defendant's Fact, as concerning the Nature of the thing.

And first was read the particular Injunction in the Point, set out in 1 Eliz. the 23d Article or Injunction; Church wardens are to fee the Churches kept clean, and all Loathsomebeed from Dust, or otherwize, removed; That they have in the Churches the holy Bible and Homilies, late feet out in print against Rebellion, and other outrageous Crimes.

That there be in every Church a fair joining Table, and a convenient Pulpin, &c. Also they shall see that all Shines, Coverings, and Candlesticks, Pictures, Pilgrimages, Relics of famed Miracles, Rolls of Wax, and Superstitious Things be taken away and defaced, preserving nevertheless the Walls of the Stone Buildings of the Windows.

the church-walls and church-yards, that they be shut in with Pales, Walls and Rails, as hath been accustomed. And the Officers are to see to it that the Parochial be well put up, and that the Book of Hymnies be in the Church, which speaketh against Idolatry and Superstition, &c.

Mr. Herbert. The Matter before your Lordships in Judgment, is the Removal of some few Parcels of Glafs out of a Church-Window. Now, upon Things thus opened, whether this be a Crime punishable in this Court, we humbly leave to your Lordships to judge. But if it shall be conceived to be an Ornament to the Church, and so a Fault in any to remove it without the Bishop's Leave; we say it is true, we did it, but not upon our own private Head, the Veftry agreed upon it.

And whereas it hath been objected and charged, that the Defendant did this to.encroach upon the Church-Government, we hope it doth not so now appear to your Lordships; but that he is a good constant Observer of the Church of England. And for the taking down of this Glafs, we have shewed what we did simply, and not so much what our own Opinion was, but as it was conceived idolatrous by others.

If this be a Fault, it is then because it feemeth to derogate from the Honour and Authority of this Church, and doth in opposition to the Bishop's Jurisdiction; or else it ariseth out of our Answer, in that we justify the doing thereof, as in our Lay-Fee. But we have shewed he did not this to make a Power in the Veftry against the Power of the Bishop; no, this was an Act of Duty to the Bishop, and punishable by him if it were not well done: so we do not divide the Power from the Bishop, but the Quoion is upon the exercise of this Power, whether the Veftry-men, when they have done well, are to be reprehended; or whenever they do any thing about the Church, whether they must yield to the Bishop for Leave?

But this be not an Offence in the nature of it, yet is it said, that to us it is an Offence, because of our Jufification; which is not only de facto, that it is done, but that it is rightly done by the Veftry as their Act in their Lay-Fee, which is exempt from the Bishop's Jurisdiction.

To this we anfwer, That this was only the Opinon of the Defendant, it was not the Ille; but his Difpolition is not to stand out in a thing, which afterwards appeareth unto him to be otherwise; he did conceive it was a Lay-Fee, and was their Impropriation: And he said it was exempt from the Power of supreme Authority, the Archifhop or the King's Majesty, yet he did it as the Act of the Church-wardens, which is subject to the Bishop.

For the Act it felf, the taking away of some little quantity of Glafs, we have shewed you the Ufage of the Veftry, what they have done in other Cafes; and if every Alteration in a Church should be profecuted as a Crime in this Court, I fuppofe the Court would be over-much filled with Profequences of this nature. Thus much for the Matter of the Fact; then for the Manner of doing it, it is pretended, that it was done against the Bishop's Inhibition.

The Defendant hath denied this Point upon his Oath, and fheweth Probability to the contrary; My Lord Bishop had long and often Conferences with him, but never fpake to him of this thing.

Next, for that Circumstance, that by this Ex- ample of his breaking the Window, some others, when they did the like, let in the Books we find only that some body did break the Window again after this, but who it was, is not yet fett down. Two or three times a Year for Glafs Windows to be broken by accident, is a common thing. We find all that after this a Pitch-fork was found hanging in the Window; we fay this was discovered only upon Proof, and was not in the Pleading; But the Men that examined this, faid that it was a mad Man indeed that came that way, and threw his Pitch-fork there, and this might have been proved. And shortly after many more Glafs Windows were broken, but where, or in what Church, it doth not appear as I conceive. And, whereas it hath been laid by a filly Maid, that the thought Mr. Sherfield was mad; and it hath been faid, he went about like a mad Man; We fay, that if his fateful Care and Industry in that City, for the Good thereof, if this Advice in all the Kingdom so well known be refpeoted, he is not to be accounted a mad Man: He did not come in a mad and bra- ving manner, but fecretly, and this is proved by the Mother and Daughter; we fay the more pri- vately it was done, the less offensive it was: which we fubmit to your Lordships, and the whole Caufe together with it. The Charge against the Defendant is, that he did difhonour to the Church; but we fay, that the Act was to do Honour to God.

Bishop of Londo. Was not this done contrary to the Bishop's Inhibition? Let me ask this Quef- tion of the Defendant's Council, Why did Mr. Sherfield promise to fatisfy the Bishop? did he give this Satisfaction before he did the Fact? This I muft needs declare to your Lordships, that my Lord Bishop of Sarum hath written to me, and by his Letters it appeareth sufficiently how this Matter was carried, and what paffed about it: if it paffed my Lord Keeper, it may be read.

But this being out of Court, and a thing to which the Defendant could make no Answer, was not ap- proved of. There hath been no Fault in the Bishop of Sarum; but the Bifhoffs on the Pofcorum's part hath been as ill follow'd as ever I faw; and on the other fide, by the Defendant's Council, as well defended; fo much I muft fay for them.

Sir Richard Bilton. This Offence is clearly a- gainft the Bishop's Authority; and the greater by his Defence fet forth in his Answer; and by what the Defendant hath fhewed, it appeareth he did this by his own Authority.

The Order or Agreement of the Veftry is no more but this, You may, if you pleafe, do fuch a thing; Mr. Sherfield may, if he pleafe, take down the Glafs Window; that is to be understood at his peril, they would not fand to it. This, especially in a Man of his Example, is not to be paffe'd over in thefe Times. I undertake these are fome Spiri- tuals now, that if they had been alive in Solomon's Time, would have gone nigh to have done Vio- lence to the Chriftians; God knoweth what would have become of them!

Mr. Horne. As to my Lord Londo's Ob- jection, that it feemeth it was done after the Inhibi- tion, Mr. Sherfield, upon his Oath, denyeth that he had Notice of it. Mr. Chancellor himfelf, he had not Notice till after the Fact: He was of- ten with the Bishop, and he never used any Words about it to him.

Bishop
Bishop of London. He undertook to satisfy the Bishop (and the Bishop you are to know, is not bound to give Notice to every Man of his publick Act;) but your Proofs are, that the Veltry have done these and those things, without the Bishop; they prove matter of Fact, but what was done here-tofore, maketh not much for an evil Custom.

William Noy, the Authority of the Veltry against the Bishop's Authority, they were at first made and suffer'd from Negligence of the Prelates them-selves. The Veltry confits of the Minifter and Curate, and some Lay-men, I do not say Lay-Elders; they here agree for the taking of this Window down, but the Quellan lieth not upon their Power, it lieth upon the Fact it self, confisfied by the Defendant himself; and, I say, if he had not confisfied and proved more against himself than the Rector himself hath done, he might (I think) have gone without the Cenfure of this Court. It is proved by the Defendant's Witneses; and that he did it, is confisfied; but he alledgest in his Ex- claus, that for Twenty Years he observed this Window, and he took Office at it; he fast in a Seat in the Church, and he could not choose but gaze on it; he could not rest with a good Conscience, but the Window must be taken down: but in all these twenty years he never complained to the Ordina- ry; but after twenty years he propoñeth it to the Veltry; there were present the Churchwardens the Veltry-men, and Mr. Stather the Minifeter; some were foe wise as to question whether the Bishop's Convene were not to be had unto it; to this the Defendant faith he will satisfy the Bishop, but never offered to satisfy the Freemen: agreed that the Window be taken down, provided he make it up again with plain Glasses. The Bishop hear- ing of this, tendereth for one of the Church-wardens, and makes a publick Act to prohibit the taking of the Window down, and supfunds the Power of the Veltry, if they had any; of this the Bishop is not bound to give Notice: the Defendant must do it afterwards at his Peril, and he told others that the Chancellor appoyled it.

For the Manner of it, when he cometh from London, he went in secret Manner, it was between four and five of the Clock, when at that time of the Year it was between Day and Night, growing to Darkness; and he went by himself; he took no Glassier with him, nor any other to witness his Act, no so much as any one of the Veltry-men, upon whom Authority he said he did it; and thus in private and secret manner he committed this Exploit. It is said by the Witneses on his Part, that some did, by occasion of it, commit Idolatry, but Mr. Sherfield knew not of it, (for any thing that appeareth;) besides, he did not follow the Veltry's Order in doing it, for he broke it down, he did not take it down: he taketh Office at the painted Errors, but he hath broken it, and never mend'd it again: but he breaketh that Part only which offended him, the Head and the Feet: if this were done in the Execution of a publick Act, he would furly have had some Witneses of it; but he had none, he botched himself into the Church, that none might fee him, he was not willing to be seen; fo it was clandestinely done: if it had been done by him upon the Order, he would have consulted with the Glassier; wherefore cer- tainly he executed his own Humour, and not the Veltry's Order.

It hath been farther said (to excuse the Defend- ant) that he may and must do it; but of how dangerous Consequence this may and must be, is, I shall endeavour briefly to shew unto your Lord- ships. He takes notice, first, that the Church is a Law-Fox, and being in the Parliamions, and him- self a Parliamioner, that he may therefore do it: But from this they have already flirted, and they may and must do it; for they do know it is a Parochial Church, and endowed with a Vicaridge, which if they should have denied, we have the Record it fell ready here in Court to prove it.

But yet they say, there hath been a Veltry even from the first Foundation; and they have done, and used to do divers such things; they have made Seats, pulled down Seats, removed the place for reading the Service, out of the Choir into the Body of the Church, taken down Walls of the Church, and the like, without the Bishop's Leave or License, and therefore may take down this Window.

My Lords, there is a great deal of Difference between Repairing and Reforming: Reformation ought to be made always by the supreme Power, not by private Men; but when private Persons, or a Veltry will take upon them Reformation, I make bold to say, it is the Highway to pull all out of order with their Reformation. Something was said, as if the Reason why the Window should be taken down, was, because the Painting darkened the Church: But if this had been all, I should not have spoken much against it. But it was done for Reformation, his Conscience could not bear it. If it should be harmful for private Men to do thus much, I think they should not do any more.

Nay, some hold our Church is idolatrous and un- cleane, because Common Prayers are said in them, and Muffs have heretofore been said in them; and therefore those Reformers would at the next Bore take away our Churches also; this must be next. As to the kneeling down to the Windows by some; it may be some will do so to a Saint, or one of the Prophets of the Old Testament who they say their Pictures in a Church or Chapel, (as in Lincoln's-Inn Chapel) which if they do, then Mr. Sherfield must pull such Windows down, or somebody else to whose Conscience it is a trouble. Again, because it is a Caufc of Idolatry in others, therefore must Mr. Sherfield pull it down; but it is such Idolatry as must be conceale from the Ordinary. Suppose another Man come, and say it is no Caufe of Idolatry, and therefore it shall stand still: Thus they differ first, and then they fight for it; next they have Partakers on both sides, and so an Infraction may come of it, which has many times taken its Beginnings from left Occasions than this: And tho' (God be thanked) in this Cafc it was not fo, yet it might have been, and may be fo (if such things should be allowed) in other Infrances of like Nature hereafter. But he may and must do it, because of the late Queen's Injunctions and Articles, &c.

The Injunctions and Articles are but to authorize the Ordinary to enquire of such things, fit to be reformed in Churches by the Church-wardens, and other Officers; and they are to present it to them, and fo they are to be reformed by the Power of the Ordinary in every Diocese and Jurisdiction: and the Meaning was, that all Relicfs of Idolatry and Superstition should be taken away; but every
every Memorial, or Story of a Saint and Prophet is not a Relic of Idolatry or Superstition. Any Monument of Superstition, or of feigned or false Miracles, may be taken down; but Monuments, or Pictures for Memorials of Saints or Prophets, are not Idolatrous or Superstitious. If they should be so, because some Men conceive them so, and then they may pull down all the Heads of their own Heads, why then many might (and I doubt not but some fiery Spirits would) take upon them the Boldness to pull down all Catholic Churches, because they are made in Form of a Cross, which some of the precise Sort cannot abide: And so, because Churches stand for the most part East and West, they would pull them down, because (forsooth) they hold it Superstition. But Reformation is, and always hath been a Work of publick Authority, and some Men have been punish'd in this Court, heretofore, for offending in this Kind.

In the Queen's Time, many went abroad (of their own Heads) to break down Crofts, Images and Pictures of all sorts, in the 44th Eliz. At Bishoerbury they pulled down the Crofs there. And in the 14th of King James some were brought here in this Court, Ore tenns, and sentenced for the like. And by the Sentence you shall see what Name is given to thole Men, who pulled down Crofts; I shall read but these two Records, and say no more. The Records were read by Mr. Robert Page, the Recorder's Attorney.

By the Queen, a Proclamation against pulling down of Images and Pictures: Whereas many violent Persons have of late of their own Authority gone about to deface the Walls and GFifs Windows of Churches, and Monuments of the Kings and Monuments of Noblemen, and Gentlemen defaced, to their Dijfavour, and to the Breach of our Peace: Therefore a 4th Commandment is given that all Men forbear to break the Pictures set upon Tombs or Graves, and not to break the Pictures or Portraitures of the Noblemen, or others in Churches, Church-Walls, Windows, etc. nor any Images whatsoever, without the Advice of the Ordinary, or the Advice of the Queen's Majesty, or by Council, etc. Given 44th Eliz.

The other Record is this: In Camera Stellaris Anna Regni fac. duodecimo. Wrote 13th and 14th of King James, John Dale, John Eden, Hugh Jones and Richard Jackson, and other refractory Puritans and Brownists, did deface divers Crofts in Highways, in the Night-time: For this the Judgment of this Court is upon their Confession in open Court, that the said John Dale, John Eden, Hugh Jones and Richard Jackson, shall be bound to the good Behaviour, and acknowledge their Offence at the Af- fines, and every one of them pay 100 Marks Fine to the King's Life.

Your Lordships fec now that the Defendant might not do it as he did, nor was he bound to do it at all; we therefore leave it now to your Lordships to confine.

The Sentence.

* Chancellor of the Exchequer. This Cautel (may it please your Lordships) is of great Weight, and well deserves the Confirmation of this Court: It is brought by his Majesty's Attorney-General against this Defendant, Henry Sherdsf, and some others; but the rest are not proceeded against. His Offence (as it hath been proved by Witnessies, and confed by himself) is the wilful breaking of a Gaifs Window in a Church in Salisbury, which Window antiently stood there; and this he endeavours to justify. That theft, and such like, are the Acts of Puritans and Brownists, it appeareth upon Record. His Answer, I conceive, to be against him, tho' he now and then Part of his Justification, and it doth please his Spirit. It is said he is a wife Man, and an Old Man, learned in the Laws, and that grey Hairs are upon him; but it had been a better Argument of Excommunication, to have said he was a weak Man, a poor Man, or a mad Man. He took Scandal, and it was an Offence to his Conscience; but this was a tender and fearfull-receiving Conscience; he must have the Window removed.

This, and such like Matters may go very far, and great Michies may arise by it, as there have of late Years both here in this Kingdom and in France. He did not only do this, but he boasted of it when he had done, as if he had reformed Superstition; One Day's Work, in the represent- ing the Creation, is fet before another person; and the Picture of the little old Man in blue, must be the Picture of God the Father. But this is as light as to affirm, that Idolatry must be committed to any Thing, which for Ornament the Painter hath mathe, But for the making of Pews in the Church, Pulpits, etc. this is but Reparation, from this they come to Reformation. Six of the Vetfre, at least, conceive they have Power to pull down this Window, they agree it shall be taken down, and Mr. Sherdsford may do it if he please, etc.

This was in Jan. 1639, 56th Caro1's, but it was not done till October following, and then it is not taken down. I do not think I can believe (too it appears not in Proof, and therefore as a Nov ligent I pass it by) that he knew of the Bishop's Inhibi- tion. But, say they, why then should not the Bishop speak to him of it? He faith it is a Lay- Fee; and said, that before the FaC Mr. Chancel- lor opposed him. The violent Manner of his doing, it is both proved and confed. It is said he is a Justice of Peace, I hope your Lordships will take Order he be Justice no longer. It is proved he received the Communion kneading; why did they not prove likewise that Mr. Sherdsf was baptized? Who doubts that Mr. Sherdsford was baptized without the Inquisition? to prove the FaC; it was well done fo no inuriour. where the ill Example of it, others followed it. They say it was a Madman who did it; this was not proved: but it was more like he was mad him self; it was indeed the Act of a Madman, and fit for none but Madmen to imitate.

For his Answer, I take it to be full of Singula- rity and Pride, and notwithstanding any thing contained therein, or in the Proof, I hold this his Action a great Offence, an Offence of great Scandal and Presumption as to him that knows the Law. If he or others had been minded, upon good Advice; or in good Way to have preferred this Case to the thing for to be reformed, to the proper Ordinary, or to the King's Majesty, being the Supreme Head, he and they should have done well, and have had a great many Thanks for so doing; but tho' it were fit to be removed, it was not in his or the Vetfrey's Power to do it. I take it, it differs not from that Case adjudged here in this Court the last Day, when a great many poor Men, who had Right to Common, but in claiming it made a Riot, were justly punish'd. So here, tho' this Window were scandalous, yet a private
private Men, nor many private Men cannot take it down: For what (as Mr. Attorney said) if one half of the Town would have it stand, and the other half would have it down, what must follow but Infraction? So that here is in this a great deal of Difference, and that done in the Singulariy of his Spirit in Contempl of the Church; he hath thereupon touched upon the Royal Power, and enquired upon the Hierarchy of the Bishops, who have the Authority in the Kingdom. I confess many a Sentence I will have him to be so more Recorder of this City, that he be bound to the good Behaviour, that he make a publick Acknowledgment of his Fault in that Church where his Fault was done, and in the Cathedral Church. And that he may now pay 100l. Fine to the King's Majesty.

* Lord: chief of the Common

# Robt. Peers. In this Cause, brought by Information of myself, when I was his Majesty's Attorney-General, against Mr. Sherfieild and others, the Relator hath only proceeded against this one Defendant. Upon all that hath been said on both sides, these Things come to my Conclussion, concluded to this: That the Circumstances of Aggravation: For the first of these, I shall agree it to be an Offence; but I shall not agree in the manner of Punishment, let by my Lord that spake last. I dare not give Encouragement for any private Man to do any publick Thing in Church or Commonwealth of his own Authority, it is a very pernicous and dangerous Thing; but yet I shall not sentence him for some Things, in which the first place I shall make mention of.

1. That he should do it by Confederacy and Conspiracy with others, and that riotously: It is true, it is thus charged in the Bill; but this is not proved, nor any other than Mr. Sherfieild himself in Derby, I must confess, as I was informed that the Cause was much fonder than it is, and many others were suspected to have an hand in it; and this was the Reason of the Charge in the Information.

2. It may be he took but Scandal at this superflous Window; and had he only moved it at the Vetry, this alone had not been so great a Fault, if he had done according as the Vetry ordered.

3. That he did it contrary to the Command and Direction of the Bishop; but this I dare not say is so fully proved, as on it to ground my Sentence, I verily think, as in my own private Satisfaction he could not but know to the Bishop's Inhibition. However feering it is not proved, (that if it had been carefully followed, I doubt not but it might have been made appear sufficiently; for the Bishop of Salisbury himself, and many others, might have been examined in it) I pass it over as a Thing not manifetc.

4. That this was done out of the Spirit of Con- tradiction, and in opposition of the Church-Gov- ernment: I condemn his Rashness and Heat of Spirit in doing it without the Bishop; but I cannot perceive that it was done to opple the Bishop, or Ecclesiastical Government. If this had been proved, or did appear in his Actions, I should have accounted it the greatest Matter against him; as for his inward Thoughts, I dare judge no Man's Conscience.

5. That he did this in a profane Manner, and that it was a Breach of Purity towards God. I must confess I think not so, but rather that the Offence was fit to be removed; he was grieved, and his Conscience offended at it; and I verily think, if the Bishop had been told of it in a decent Manner, he would have reformed it.

6. That it was done riotously; but it is clear there was no Riot in the Manner of doing this Thing: And so I hold this no aggravating Circumstance, he did but satisfy his ill-grounded Conscience.

That when he had thus done, he boasted of it; this is not the fact, nor Man feeleth. I protest Nay, in his answer, opened this Council on his Oath, he faith he accounteth it a great Cross to him, and is very sorry for it.

As to his Place and Authority, his Witwdom and Gravity, and his Profession, these excuse him not, but rather increase his Fault.

As to the colourable Pretences by him used in acting this Business, I do not take it, or his secret going about it, to aggravate his Fault; I think Vetrays have too great Power, and often take upon them to do Things beyond their Power; and yet I know nothing to the contrary but the Reverend Bishops may abridge that Power when they please. And so through this I think that he did it not contra voluntatem Episopi, sed prater; that he was the first Mover of the Master to the Vetry: This is not a Fault in him, I think, but well done of him; and yet when the Vetry had done this, and the Defendant executed their Order or Agreement, I do not see, but the Bishop, if they had done ill, might have punishd them. Give me leave, I beseech your Lordships, to speak thus much: A Judge must not speak his own Imagination, but according to Proof; he is bound ever to give Sentence secundum probatas, not proba- biles. That he undertook to satisfy the Bishop, this I think is proved by one single Witness; but yet this Action of the Defendant, I conceive to be an Error in the Defendant. The Vetry (he should have known) are but private Men, and have no Jurisdiction to reform, whatsoever they have done in Matters of Repair heretofore. But if this, or such like Things should be permitted in the Church-Government, to be done upon private Authority, why should not the like Men do the like in the Commonwealth, and then we should be at an evil Pals.

We read in the Book of the Judges of Israel, when there was no King in Israel, private Men did what was good in their own Eyes, and many erroneous Things and Slaughters fell out thereupon.

There was Cauze (I am satisfied) that this Window should be removed. It was made for the Picture of God the Father, and so it was generally conceived to be: but the it was idolatrous, and their bowing to the same was conceived to be Idolatry, they should therefore have told the Bishop of it; which seeing neither Mr. Sherfieild nor the Vetry did do, he is not in this to be excused. I shall therefore agree to sentence him for this Fault; but I shall forbear to put him from his Place of Recorder in the said City: It is not an Offence in him as Recorder, nor as Justice of Peace. I hold every Man that is fended thence (as near as may be) be fended to vacate, and therefore I think not fit that he be put either from his Place, for eile we should for this one Offence confine him as worthy to be cut off from his Places, and so good for nothing. And I shall forbear to bind him to the good Behaviour, for he is a Gentleman of Reputation in the
the Country where he dwelt; and I have ob-
erved, that a Gentleman is not bound to the
good Behaviour, but for very few and enormous
Offences. But I would have him to make acknow-
ledgment of his Fault unto my Lord Bishop of Salisbury,
and before such as he shall call unto him: And
I would have him give some Satisfaction, and also
in the very kind that he hath offended, as at the Disac-
ration of the Bishop. For the Fine of 1000l. let by
my Lord, that palse last before me, I hold it to
be too much for an Expense, being there appeared
no Contempt: I shall therefore think, and so set
500 Marks to be enough.

* Lord Chief Justice of the King's
Inns of Court.

Sir Thomas
Byrne. My Lords, Mr. Attorney
General is Plaintiff against Henry
Sherfield Esq. We are not to take notice of any
none Defendants, because they are not proceeded
against; for this Caufe, my Lords, I hold it
comes fully and properly before your Lordships.
Here is rightly crimes Stellartum. There
be many Covers in it; for it is of mixl'd Cogni-
zance, and therefore fit for this Court, which I
ever held to be the greatest Court, except the Par-
lament.

In delivering of my Mind, I shall crave Pa-
don, if I speak any thing which shall be miftaken.
For the Fact, (as it appear unto me upon the
Proofs) it was the breaking of a certain Window
of painted Glass, not one of the greatest in the
Church; it was a private Window, and it was
privately done by him with his black Staff.

His Motive to do it was this, There was Of-
fence in this Window, and he conceived that it
was Idolatry, or the Caufe of Idolatry. The
Offence was, that God the Father should be
painted there in the Form of an old Man in blue
and red. I have no Reason to think Mr. Sher-
field took this to be made for God the Father;
for he never was, nor never can be painted;
who knows him so well? Moses himself saw his
back parts. But give me leave, my Lords, as
for Idolatry. This worshipping of Idols is the
greatest Sin of all others; it is a spiritual Idola-
try; it is to give God's Honour unto Creatures:
For the Humilies of the Church, I think they
are very excellent Things, and so they are without
doubt: and there is an excellent Homer against
Idolatry: so that Mr. Sherfield, and others,
taking offence at the Pictures in this Window,
(altho' I see not why it should be taken for God
the Father) they might, to avoid Occasions of
evil, Defend, and endeavour to remove the same.
But then I hold he should have gone to the proper
Judge that hath Power. And here I find fault
with him, that in the twenty Years of his com-
mitted Offence there, he would never refer
the Bishop to complain thereof: This was cer-
tainly fraudulens acceptum, & non damnum. He
should have gone to the Bishop; but for his Colour
to do the same, by the Order of the Veftry, it
cost me a colour. Two withflud this Motion, right
though I speak of it to the Bishop; it was, and
never any Question at all was made of it; for I
know Mr. Sherfield is as well beloved of the Cit-
zens as any Man can be; and, I premise, he might
command an Order in the Veftry: but, I say,
the Veftry hath nothing to do to reform, it wholly
belongeth to the Bishop. And the Power of the
Church-wardens, by the Canons and Constitu-
tions, is but to inquire and present; but the Bi-
shop, the supreme Ordinary in his Diocese, and
the Arch-deacon, who is magnus Omalus Episcopi,
are the proper Agents in a Work of Reforma-
tion; what Mischief would come entire? There was
a special Commission in Henry VIII's Time. I
know who were Commissioners, and have seen
the Commission: They did strange Things; but
I have been again as strange Stories of Things be-
fallen that I say not.

In 3 Edw. VI. Cap. 10. It was enacted, that Re-
formation in the Churches should be made by
Archbishops and their Committees.

This was repealed by Queen Mary, but for all
that, a foot again the first; and the Times must follow
the Wield of an Act of Parliament. Again, of
what dangerous Consequence is this Act of Mr.
Sherfield's? If these Men should be permitted to be
Reformers, they would reform Those things
which need no Reformation. I have seen, in some
Churches in my Circuit, some Stories of the New
Testament, some in Windows, some in Needle-
work and Woven-work; God forbid those should be
taken away.

The manner of his doing of it I like not. He
did not take it down, but break it down in the
Head and Feet, which offended him: This should
have been the Act of publick Authority; he pre-
faced it to do it in the Church, a sacred Place,
and ever privileged: Therefore it was an Offence
to use any Violence in it, but to the Windows, and
d therefore to be punished. I think Churches
too little regarded, I hold it very ill that he did
it in private. He might rather have taken a
Glazier with him. Yet I hold clearly, he does not
disaffect the Government. To my knowledge, he
had done good in that City since I went that
Circuit; so that there is neither Bengar nor Drum-
ond to be seen there. For Ecclesiatical Govern-
ment, he is outwardly conformable: I have been
long acquainted with him; he fithe by me some-
times at Church; he brings a Bible to Church
with him (I have seen it) with the Apocalypse and
Common-Prayer Book in it, not of the new Cut.
That he should do it against my Lord Bishop's
special Direction to the contrary, I do not think
so. There is but one that proves his Undertaking
to satisfy the Bishop. And for the Inhibition, he
had no Notice of it, for aught is proved; nay,
he expressly denieth it upon his Oath, wherefore
I do not believe he had Notice.

To speak somewhat of the Offence that sticketh
upon him, the breaking of the Window; I assure
myself, if Mr. Sherfield had gone and acquainted
the Bishop with this Order, when it was made,
this Caufe had been prevented; but done as it
was, it was disorderly done, and without Warrant.
This therefore is an Offence done by the Defen-
dant; and it is an Offence, in arrogating to him-
self Power and Authority not belonging to him,
and his Zeal and good Intention shall not excuse
him: Zeal must not transport: A Man out of his
Calling, nor beyond his Bounds; if it doth, it
cannot be Zeal, it is Raimfoes and Boldness, it
is a Onis, and a damping of Precedent: Proceed to my
Sentence, wherein I must crave Liberty to speak of
All Things whenever I speak in this Place) to use
my own Conscience; and I shall ever hold this
Rule, to judge and inflict Punishment, secundum
quantitatem delicti.

For this Defendant, I think him transported
with a little indireet Zeal; and he would not seek
Remedy for his Grievance of his Ordinary, that
he might have had Leave to do this Deed, but
rather
rather do it of his own Head, and this by colour of the Veltr's Order, nothing to the Purpose. And this, my Lords, is rather an Error, in not doing what he ought to have done, than any great Offence in doing what he ought not.

My Lords, this I remember always, that every Punishment here must be ad reparationem, non ad ruinam: therefore I shall not agree to discharge him of his Recordership, nor of his Place of Justice of Peace in that City. For binding him to the good Behaviour, I humbly crave pardon to defer from that; he is a grave Bencher, and a learned Man, and a Gentleman well governed hitherto, howsoever his indirect Zeal transported him into this Error. This is the first Offence that ever you heard of him. I shall agree for his Submissio and Confession of his Fault to my Lord Bishop of Salisbury, to be made before his Lordship, and such as be shall call unto him: But, my Lords, for his Fine to the King, 1000 l. is too much, and 500 l. is too little; I shall therefore go between both, and fix 500 l. and imprisonment, according to the Case of the Court.

Secretary Windehunte. I agree in Sentence with Mr. Chancellor of the Exchequer 1000 l. Fine, Acknowledgement in both Churches; to be put out of his Place, and imprisoned.

Secretary Cooke. His Majesty's Attorney-General, Plaintiff, and Mr. Shefield, an ancient Gentleman, is Defendant. In my Sentence I shall endeavour to keep a good Rule, which is this, not to make Faults where they are not, nor to make them greater than in themselves they are.

The Information hath charged seven several Crimes upon the Defendant; but of all these, nothing but one, touching the Defacing of such Ornaments, stucketh upon him: But is this so much? This Picture was made for the Picture of God the Father; So I thought alfo, I confess, whoever was mistaken; for Images in Churches, there hath been heretofore much Trouble about them. The first Trouble that I have read of, was in or about the second Nuree Council; and we know that Images and Images-worship grew up after it had fully crept in, in this manner.

Furt they were made for Stories, to teach that to the Eye which the Word doth to the Ear. Then they began to gain some fiew of Reverence at their approach unto them; but not to the Images, the Reverence was done to God. Afterwards they came, as we read, (out of the Windows and Walls) into the Church, and at last upon the Altars, and then to be worshipped and offered unto. Howbeit, this was but a relative Worship, as it was in Saint Mary Latin, where they in the Lentie faith, they did in his Time give Co-worship to the Images with God: But our Church doth not allow any Adoration to be given to any Image or Picture whatsoever, nor the Image of God the Father to be in the Church.

This is the Master of his Accusation: So that as unto the Matter, the taking away of such a Picture is no Offence; but in the Manner of doing it, is the greatness of the Offence.

Reformation in a private Man, is Deformation, it is not to be permitted: I shall ever be as ready to punish such as any. But that he did this of his own Head, without Leave of the Church wardens, and against the Bishop's Inhibition, it doth not appear to me as it standeth before us. I conceive he had some Opinion that the Veltr, or his own Authority, might allow him in that which he did, and warrant him in it; but he should then have done it according to the Authority.

I think he did this out of a little more Zeal than he thought to be in others; and I find that he did it without acquitting the Bishop therein: but it is falsely proved that he is contumacious, and therefore it doth not appear to be in Opposition of the Reverend Bishops.

I incline to my Lord the Judge's Opinion that spoke last, that it was done out of Zeal; and he himself acknowledgeth, it was done out of Tenderness of Confidence: yet I say, that private Men are not to make Bateries against Glafs Windows in Churches at their Pleasure, upon pretence of Reformation. Notwithstanding, I conceive the Danger of Example to encourage others to break down such Windows, will not be so great, as the Occasion of Triumph to ill-affectd Persones would be, if this Court should too severely punishe an Error in such a down-town Church, as this was allowed: Therefore an Acknowledgement to the Bishop of Salisbury, in the Presence of such others as be shall appoint, that he hath not done well in not offering his Leave, would do well, and I hold it fit is should be so: And that he be admonished to conform himself to the Government; but I acquaint him (for my Part) of his Fine, and all other Punishment.

Sir Thomas Fermair. The Cause before your Lordships, is upon Mr. Attorney General's Information against this Gentleman, Mr. Shefield and it is for doing of a Thing, which, if it had been done in a more publicken Church, he had been a Fault in him, sed bona eis ex integri causa: So that the not doing of this Thing in a right Maner, maketh it an Evil; but not do good an Evil, in my Opinion, as by our Sentence to ruin him. But it is a great Error for Men to be zealous in their private Spirits, and to put themselves forward upon publick Actions belonging to the Supreme Government. I hold that the practical Solecum, by overt Actions, is the greatest Opposition against Authority. These are to be vigiliantly met withal; for this Gentleman things here spoken make me pity his Case: Besides his doing the Fact in such manner as he confesseth, there is not any one Thing else brought home upon him by two Witnesses.

To speak my Sentence shortly: As I shall not say any thing to encourage those hot-spirited Men, so I shall fall bear and remember that such excellent and just saying, mentioned by one of my Lords the Judges, that we are to judge secedum probatam, not probatam, and therefore I agree with the same Lord in all the Sentence.

Sir Thomas Fermair. As to the Caufe, before this Court, at this time, it is (my Lords) a Crime in the Defendant; none differeth from this, that he hath done that which befitth not his Wisdom and Experience. I have learned long since, that Ignorance doth not excuse an Offence, either in Church or Commonwealth: And I hold that this Offence of Conference is not to excuse him; for he went not to the Bishop to complain of it, all these 20 Years that he was troubled at it. I heard some commend his Manner of doing it; that he was not of that mind, he could not but know, that if he had an Order he must put it. I must confess, I do admire that he (being a Lawyer) should be ignorant of the Proclamation to the contrary: But he is a learned Man, a Recorder, a Bench, and a Parliament Man: I have known him give
grace and wife Counsell in that Place: All these aggravate his Offence, and make it Willfulness in him. But for his Conformity, and yet doing a Thing contrary to his Profession of Conformity, I ground my Sentence the heavier upon him, be found pay I think fit) 1000 be, be found make acknowledg- ment of his Offence in the Cathedral Church of Sarum before the Bishop, Preachers, and Canons, but not be put out of his Recordership.

Sir Nathaniel Edmunds I agree with you Lord Heath for 500 Marks Fine, Acknowledgement before the Bishop of Sarum only, and such as be found pleasa to call unto him.

Bishop of Llandaff: If there be defects, so, or confessions so, or else two Wittenesses, I think any one of these three will be a sufficient Proud to con- vict a Man of an Offence; and I have observed there are all those together, in this Case against Mr. Shefield. He confesseth that he broke the Windows, and fetheth forth his Justification in his Answer doubtless being Insufficiency; and this was done by him with his Pigge Staff, as is testified by two Wittenesses, such as they were; yet they were Eye-witenesses, which is the strongest Testi- mony. I am persuaded, as I am a private Man, that at least he heard of the Bishop's Inhibition; I do not say, but ignorantia juris may excuse a Man in such a Cafe, at least a tent, tho' not a ten per cent, but ignorantia juris never doth excuse: yet, because it is not directly proved that he had Notice of the Act of Inhibition, made by my Lord Bishop, I shall forbear to give my Sentence touching this Particular, the rather because he hath cleared himself of it by his Oath; and yet I have met with as strange an Equivocation in some of late as almost hath been heard of, I have not read the like; but seeing there is not plain Proof, I must not judge him other than an honest Man.

Mr. Herbert hath defended this as well as ever any did a Cause to my knowledge. As for Vellries, which were made and fulfilled first by Neg- ligence, and then by wearing of the Consequence, we cannot so easily reframe the Power which they use.

I have had Experience of what I speak herein, in a Parish Church within my Diocese, St. Lawrence by Name, there is a Vellry: It fell out once that they could not agree upon some Election, I inter- posed as Ordinary; I had no sooner done this, but I was inhibited by the Archbishop of Canterbury; afterwards, by his Grace's means, it was referred to me to end, which I endeavoured; but then a Prohibition at the Common Law was sent me; so that it is not an easy Matter to reform a Cullens.

But it is not in the power of a Vellry to remove or disable any thing in the Church that is double- ful; and tho' they made an Order, in this Cafe, for the taking down of the Window, yet it was Mr. Shefield's Fault to go so disorderly to work; his violent and riotous breaking into the Church, and upon a confecci'd Thing, is criminal in him.

Whereas divers Things touching his Confor- mity were laid against him: I am confident upon good Information, had the Cause been furthered as well as defended, (but it was ill followed by them that procured, and unworthy their Places) many more things might have been proved against him; and that it would have appeared, he had done more Harm underhand in his Place, than Good other- wise. But for his Trouble of Conscience, which should impel to this Action; it troubled not much, for he kept it in, and weighed it till it grew, as you fee, to a great Head, so that at last it hath brought him hither, even to the Sentence of this Court.

My Conscience being laid at stake, I am not of Opinion, that Images and Pictures were not in the Church till the Time of Gregory the Great: Nor am I of Opinion that the first Trouble about them was at the Second Council of Nice. St. Greg- ory, who was 900 Years after Christ, in his 9th Book and 4th Epistle, written upon the . . . faith of Images, vizegagi admissae, etc. But 200 Years before this, we find that Gregory, termed the Divine, otherwise called Gregory Nazianzen, when the Em- peror had besieged the City to which he was Bishop, in his Oration to the said Emperor, to move him to pity, faith, That the Citizens, able all their Loues, spoiling of the City Walls, ruining of their Honds and Temples, took to heart the pulling down their Statues; Et bis atque atque, faith he. Nay, we find them in them in the Church 200 Years after Christ, to remove upon the Chaluce, and that is ever upon the Altar.

In Vertuallis' Time (who was one of the an- cientest Fathers) there was pointed upon the Chal- ice the Picture of the Shepherd bringing home the lost Sheep upon his Shoulders; and this was ob- jected against Vertuallis himsell, who in his latter Time fell into the Opinion and Error of the Mont- saughts, who are against Iconoclasie Marriage and Re- pentance after Baptism, affirming that no Repen- tance is left to him that finneth after Baptism; against which Error, the Church used this Symbol of the Shepherd bringing home the lost Sheep.

Again, in the Time of that ancient Father Iren- eus, who is held to be the Scholar of St. John, they had the Picture of Iesus Christ; and they had it from the Goths, who had Adoration with it, and Sacrifices; and therefore the holy Fa- ther condemned that Picture, because (faith he) the Goths did that to this Picture which the Hebrews did to their idol Gods. But it hath been a disallow'd Thing to remove Pictures and Images. We read, that the Bishop of Tyre broke the Pictures in the Churches, which his People took to ill, that they role against him, and were hardly appeased.

And of late times we have had Experience of like Mishiefs in France and the Low-Countries about this Matter. And we know what Re- belions were raised in the beginning of the Reforma- tion here in this Kingdom and in Germany: when Carosbendas and his Company went about to pull down, and deface the Images in the Churches, what a Stir was there? If Luther himself had not come back and appeased the Multitude by his timely Advice, that the Work of Reformation was to be left to the supreme Magistrates, (which was well done of him, and a Thing wherein he shewed his Willdon) much more Mitchell would have ensift. I do not lay these Things to any such Purposes, as that Images should have any Part of Divine Adoration.

When they were brought into the Churches, as one Side did to whip them, to the other Side fell to breaking and overturning them, which bred many Broils; and amongst the rest, one very sharp Contention by reason of the prevailing of Wosshippers of Images, was stirred in the Time of Contamiuse the Greats, for I read the Empress gave her Voice against her Son Constatine to put him off from the Empire, because of his defacing of the Images, which they had in their Churches. But
for this great Council of Nice, (pardon me this gross Term, but they deceive it in my Opinion) they decree, the same Honour was to be done to the Image as to the Life; whether it were the Picture of Man, or of God, or of Christ. And then another Decree in that Council was, that a Man must rather endure Penury than do Violence to a Picture: and their absurd Definition of Latin and Dacian, &c. Yet this Day, there is a great deal of Difference between an Image and an Idol. But then, if Men give Worship to them as to the other, it is unlawful.

As for the Injunctions in the Queen's Time, this was done by publick Authority, and done in every Place by the proper Judge. And, touching the Matter in question, do I not think it lawful to make the Picture of God the Father: but this Lawful to make the Picture of Christ, and Christ is called the express Image of his Father. I don't mean to say that the Picture of Christ, as God the Son, may be made; for the Deity cannot be portrayed or pictured, tho' the Humanity may. I do not think but the Representation of God the Father (as in the Prophet Daniel he is called the Ancient of Days) hath been allowed (tho' erroneously) to be made, like an ancient old Man: and this the Lutheran Party hold too; but whether it be idolatrous or superstitious or not, this I hold not to be the Question. And I shall ere LIBERTY not to declare mine Opinion at this time, whether it ought to be removed: But the Defendent, Mr. Sherfield, did this in Contempt, at least in Neglect of the Church's Authority, and the Authority of the King's Majesty, for the Church derive their Authority from the King, as well as the Civility. I shall therefore mention him for breaking this Window, whether it were fit or no to be in the Church: if it had been white Glaze, it would have been the same thing to me; it was a violent and raging Act, and it is now a lämbe of great Weight and all Consequences, and therefore fit for the timely Interposition of this Court, as it has been the Idol of Jupiter, and they had professed Divine Worship to it, it had not been lawful for Mr. Sherfield, or any private Man to take it; and this I shall prove and maintain by Scripture.

The Idol of Jupiter was but as the golden Calf which Aaron made, before which the People of Israel committed Idolatry; yet we see Judgment was executed by the supreme Magistrate by Command from God, and the Tribe of Levi was command to kill the Idolaters.

Then again, there was a Brazen Serpent appointed to be set up by the Lord himself, and afterwards it became an Idol, and the People committed Idolatry with it; yet none of all Israel presumed to break it down, but Hezekiah the King did it. Also the Calves of Jericho, let up at Dan and Bethel, were plain Idols, yet they continued a long time, and were not pulled down till Jotham the King did it, and this he doth by his supreme Power; and the King did this by the Priests of the first and second Order. Both these appear in their Story in the 4th Book of Kings, the 13th and 23rd Chapters.

As for the Second Commandment, Thou shalt not make any graven Image, or Picture to thy self: No, take heed, worship it not howsoever it be, if thou dost make an Image, yet thou shalt not worship it. But there is no Command or Example for breaking of Images (when they are made) without publick Authority. You shall see this plainly in that Altar let up by the Reubenites and Gadites at Jordan; this was conceived by some of the People to be an idolatrous Thing, at least an Intention in them to set up another Manner of Worship, and Jericho was the Place of Worship only: there was an Embasriage sent unto them, and Priests and other Princes were employ'd in it; they did not presently fall upon them and break down the Altar, tho' they had special and strict Command to overthrow and break down all Idolatrous and Heathen Altars, Groves, Places of Idolatry and Images; but this they were not to do presently, they were to carry till the Land was theirs, in their own Power, as you may see in the 7th and 10th Chapters of Deut. But you may say, we have not a Temple, but for us in the Times of the Gospel. In St. Auguin's Time the People committed Idolatry with their Images, and many there were that would have pulled down the Images (the Caues of this Idolatry.) St. Auguin adviseth, No, first pritance out of Men's Hearts, and he called upon the Ministers to do; but you shall not pull them down (faith he) till the supreme Power doth it, or Power were given them. Thus, if it were Jupiter's Picture, Mr. Sherfield or any others are not to pull it down till Power be given them, and Gerardus the Lutheran is of the same Opinion.

The Hornily against Idolatry (to much magnify'd) plainly flies it to belong to the supreme Magistrate, and has reference to such Pictures as are upon Walls; but Stories upon Glass Windows were not here meant. And as for my Lord Bishop of Salisbury, his Book of his worthy Lectures at Cambridge, upon the 4th Chapter of the Epistle to the Colussians, upon these Words, Walk not as other Nations, but as it is meet you who are called to that end, What faith he? Why the very same that St. Auguin did before, that a private Man hath neither vocature nor potestatem to do it; thus he or had read a little farther, he should have found Direction to have walked wisely. And indeed, those that are out of the Church must be dealt wisely withal. When you see these Things, you cannot, as the Israelites did not, deface them, for they belong only to the supreme Power. And you shall see St. Paul's Practice in the 17th Chapter of the Acts of the Apostles; if this Day they had set up an Altar to the unknown God, yet he went not to pull it down, but to teach them that God which they knew not, even as St. Auguin afterwards advis'd.

So I come to this which is the Work of the Day, this is a violent, riotous and prophanentering into the Church by him, to break this Window down with his Pike-Staff: and as the Matter standeth proved to me, it feemeth there are three Circumstances of Aggravation of his Fault.

1. The First Crime of Aggravation is, That when he went about the taking down of this Window, he went not unto the Bishop, but chose another way.
Proceedings against Henry Sherfield Esq; 8 Car.

2. He was Twenty Years offender at it; and in all this Time we think some good Spirit might have suggested unto him better Advice, if he would have followed it.

3. By his Office and Authority, his Fault is the greater and more dangerous.

4. By his Age, being grown grey, he should have learned Wifdom.

5. That when he went to do this, he went in private, which some have said to be well done, but I am not of that Opinion: true, if it had been a Work of Necessity in him to take it down, he might have done it, when he might have been able to follow his Order, and he should then have taken a Glazier with him to have taken it down, and not break it down with his Staff.

6. His Offence is the greater by his Office of Justice of Peace; certainly herein he was not Conscourator pacis, for besides the Force and Violence, there might have been much Dilford and Blood-fled about it, as was well observed by Mr. Attorney.

7. By the doing of this Act contrary to his Conformity, there have been the like Incursions done in the same Church, for which I think there is a Caution against some of them depending in the High Commissary Court; there was the Tomb of a dead Bishop there, his Bones taken up, his Scull made a Master in an Apothecary’s Shop, (as I am informed) his Duff thrown about, and all to bury a Tanner’s Wife.

8. In regard of his Tenderness of Conscience, which he alleged for himself: My Reason is, for that, if he were of a tender Conscience indeed; yet in this thing I shall sentence him, for not going to the Bishop to reveal it to him; if it were but a flaw of Tenderness, then surely there was the more Wilfulness in his Offence, and this can be no Excuse.

9. His Fault is aggravated from his Profession. It is an honourable Profession; and as it is a great Offence in a Divine to infringe the Law of the Kingdom wherein he is born and bred up, so is it also a great Offence, if those of the Profession of the Law oblige the poor Laws of the Church. Thus much let me say to Mr. Sherfield, and such of his Profession as flatter the Ecclesiastical Laws andPersons, that there was a time when Christmen were as great in this Kingdom as you are now; and let me be bold to prophesy, there will be a Time when you will be as low as the Church is now, if you go on thus to contend the Church.

10. He proceeded, he went into the Church. It pleased God to give him a fall upon the Place, and if it had not been God’s Mercy he had broken his Back upon the Edge of the Pew; yet all this while thee Things have not wrought him to any Confession that he hath done amiss; nay he faith, he was perfecuted for God’s Cause (as I am informed) but I think he perfecuted the poor Sexton of the Church, they put him in Prison, and there kept him, and would have kept him, if my Lord Bishop had not sent Bail; and if it had not been for the Bishop, they would have turned him out of his Place. And then, fall upon the Fact committed, commit a new Leech Law to Town, and he prospers, upon the Text, Et juxta maxima, ver. 12.

I have executed Judgment and Justice; hence we are not to mine Oppressors. I have been the willing to render this Account in this Time, because some are ready to slander us, as Maintainers of Popish Superstition, and I know not what. At for my Seintce, I agree with my Lord Cotting- ton.

Lord Wontsworth. This is an Offence (my Lords) committed by a Man of Learning and Judgment; the Perfons of Men and Times may aggravate Offences. Men now in these Days make themselves wiser than their Teachers; whereas it is said, he did this out of Conscience and Zeal, and with an intent to honour God, he is out of his Element. UzzeU touched the Ark with his Foot; but because he did this without warrant, he was instantly punished. It is not for a Divine to meddle with Littleton’s Temples, nor a Lawyer with Divinity, to govern Matters in the Church. The Velthuy had no Power to re-form, nor authorize Mr. Sherfield to do this Thing; and I hold it a very great Boldness in him, to justify his Fact under these Pretences; for things which Velthuy undertake to do of themselves, if it be well done, it is well; if it be not, let them look to it. But for their frequent and ordinary transcending their Power, it is high time that the Bishops be directed by the King’s Majesty, to regulate all such Things, and to reduce the Whole Velthuy into Order and Obedi- ence. I shall not forbear to publish an Offence of this dangerous Consequence upon that Ground, for fear of giving an Occasion of Triumph to Time: I think his Impunity will be rather an Encourage- ment, to Men of other Minds, to set their Hands to the like, of which there is great Danger. I shall not therefore in my Sentence go any thing, lest any of my Lords here before me have done; That be he not any larger Recorder of that City; that he be bound to the good Behaviour; I see no Reason but a Gentleman may be bound to the good Behaviour: For his publick Acknowledgement, I think it necessary to be made in both Churches, and that he pay 1000 l. Fine to his Majesty’s Up.

Sir Robert Nantua, Master of the Court of Wards and Liveries, gave not his Sentence because he was not in Court the last Day, at the begin- ning of the Hearing.

Lord Newburgh, Chancellor of the Duchy of Lancaster, forbade to give his Sentence for the same Reason.

Vifcount Falkland agreed in his Sentence with my Lord Cottington, for 1000 l. Fine unto the King, &c.

Vifcount Winbleton agreed in his Sentence with my Lord Heath, for acknowledgment of his Pahty to the King, and such as he thought fit to call to him; and to pay a Fine of 500 Marks to the King’s Majesty.

Earl of Helland. He was not present at the begin- ning of the Hearing of the Cause, and there- fore did forbear to give his Sentence.

Earl of Devonshire. He agreed with my Lord Cottington for 1000 l. &c.

Earl of Daresf. I conceive, my Lords, that the Professor of this Cause is much to be blamed, and did the Court legally take Notice of a Pro- fessor, where the King is a Party, I should give my Vote to fine such a Man: He hath here made a great Nois of terrible Things, (even in Num- ber, and in Number) of so many of them. I shall speak somewhat of the Matter in question that stickeht upon him, and not meddle with what hath not been proved. And first is to be considered what was done; a Window in a Church
Church was broken, because of the Image of God the Father which was in it, in those Places of the Head and Feet of the Rep resentation of the Deity: this, if it had been done by the proper Judge, had been well done. If all unlawful Pictures and Images were utterly taken out of the Churches, I think it were a good Work; for at the best they are but Vainies and Teachers of Lyes. For the Antient of Days in Daniel (I take it) this doth not give warrant to frame a Picture of God like an old Man; but it sheweth the Eternity of God, that he was before all Times and Days. And it cannot be taken to be the Portraiture of any other; for the same Reason, it must needs be intended for the Picture of God the Father; for what Man did help God about the Creation? This therefore is unlawful, no Man ever saw God, nor did he ever appear in any Like-ness to Man. But we picture Christ, because he took upon him Man's Nature, and was Man as well as God; and the Holy Ghost appeared in the Similitude of a Dove: But I with there were no Image of the Father, neither in the Church, nor out of the Church.

Secondly, I note the Mind wherewith it was done, and it was out of a little too much Zeal, his fear of his own tender. This, if it had been guided well, would have been worthy of Prisie. I do not speak this to make as if Men may take upon them to meddle in what belongeth not unto them; yet there is difference between a Fault done of Zeal, and the same thing done out of Malice.

Next let us consider the Authority whereby he did it; and herein especially Mr. Sherfield had no Power. The Veftry had no Power, neither could they give any to another; it was therefore an Error in him to conceive, that because they used to meet and do Things for Repair and Orna-ment in the Church, that therefore they might do this, being a Piece of Reformation; I say it was his Error to do it without the Bishop of the Place. I would not be mistaken, as if I speak or did any thing against the Authority of the Reverend Prelates; for I take it, whenever that Authority goeth down or decayeth, the Monarchy dieth with it, I think they are inseparably join'd togethe- ter. But this was an Opinion of his, that it was their Lay-fee; and if he repent of his Opini- on, recant it, and depart from his Justification, (tou' his Anfwer be otherwise) I shall not take upon me to let a Man for such an Offence.

Then in what Manner did he it? Privately and without Notice; and this I hold to be a Diminution of his Fault, for secret Evils are not so bad as when they are openly done; the same Evils done in Chambers, are not so bad as if they were done in the Market-Place.

And it cannot aggravate his Fault, that he is conformable: I say, in my Opinion it was very necessary for him to prove himself a Conformitant; and being charged in the Information to be otherwise minded, he did well and wisely to clear himself by Proof.

I came to my Sentence. I shall not sentence him for three or four Papi- nfts, nor shall I forbear to sentence him for three or four Schismatics; the Reason why I shall not sentence him, is to avoid the Tumults of the rude ignorant People in the Countries where this Gentleman dwelleth, where he hath been a good Governor, as hath been testified, and is well known, and no doubt hath paid Due of his Neighbours and other Diforders; and then such Persons shall rejoice and triumph against him, and say, This you have for your severe Government: this I think would be no good Reward for his Care. The Reason why I shall sentence him, is because he hath erred in his Manner of doing this Thing, in going on his own Head without the Ordin- ary, to a Work of this Nature; and this I shall hold to be an Offence in this Defendant, or a Mif- demeavour, but not a Crime. I would not have him to lose his Place therefore, nor to be bound to the good Behaviour; I would not consider him as doing a Thing which he ought not to Contract against the Bishop of Sarum, and in such Manner as he shall think fit; but I do not yet fix any Fine upon him.

Earl of Pembroke and Montgomery, Lord Chamberlain, he gave no Sentence at all.

Earl of Arundel, Lord Marshal. I find fault with this Gentleman for keeping close his Op- enence of Conscience, which he faicd he had at this Window, by the space of twenty Years together: he should in all this Time have revealed his Mind to the Bishop, who had been able to direct him; but upon the Matter, he goeth on his own Author- ity, to break down this Window. This being long kept in his Heart, he breaketh out to destroy the Image of God in a Man. Besides, he leaves the Ordinaries, who hath Power, and goeth to the Veftry, whom hath none, and so in his Fanatical Hu- mor he proceedeth, and breaketh the Order of the Veftry. God gave him a Warning; he fell upon the Seat, and hath had Time enough to think of it since, and in all this Time he never came to acknowledge his Offence. I agree there- fore with your Lord Cottinngton.

Earl of Manchester, Lord Pripyt Seale. In this Cause, my Lords, I shall propound two Things to be considered, The Fact it self, and the Cer- tainess of it. For the Fact, the breaking of the Window becaus of Idolatry, If this had been in a Man's Lay-fee, then he had been bound to have pulled it down; but being in a parochial Church, it is to be done by the Ordinary, or by his Appointment. This therefore being done by Mr. Sherfield, upon some Opinion that he had in the Power of the Veftry, it was an Error in him, but pardonable. It doth not appear that this was done contrary to the Inhibition of the Bishop, Non notum est judicii, quod non notum est judicandae, he had not therefore Notice of it: for my Lord of London, aggravating Circum- stances, it is true, if the Thing were done, as it is charged in the Information, then those would be all against him; but we see there were Causes it should be taken down; it is proved some did ad- dore it. How long forer Vaults and Images have been in the Churches, I hold it a very offensive Thing to make such a Picture, or Repre- sentation of God. I will mention but one Author, which was before all then who were named, the Prophet Isaiah, What Like-ness or Similitude with you make of me, saith the Lord? Yes, but Idolatry lies in the Representing of the Image. Take a wir- e Man's Counte, The painted Picture intencht the Ignorant to Idolatry. I profess it would offend my Conscience to see it, I am of such a pure Con- Science. But there are three other Things for which I shall sentence him.

1. His pretending the Order of the Veftry. 2. That he would neglect Authority, which is near unto Contempt.

9. His
Henry Shefield Esq; 8 Car. I.

2. His Passion in doing it himself, and not by others.
This Caufe and Sentence hath many Judges, even as many as hear it are Judges of it. All may take notice, that our Voices are to maintain Order and Government, yet not to uphold Superfition. I will be short, I will Sentence the Defendant, but not Fine him; to make Acknowledgement to the Bishop, not to disorder him: the Fault deserveth not a Fine.

Archbishop of York *, May it please your Lordships, this Gentleman, Mr. Shefield, is inform'd against by his Majesty's Attorney-General, for entering with Force into the Church of St. Edmond's, in the City of Salisbury, and there undertaking, without the Ordinary of the Place, to be a Reformer of Idolatry, in breaking a Glas-Window in the fame Church, which he did of his own Authority. In his Answer upon the Matter, he fetth forth a justification.

First he faid it was the Lay-fee of the Parishes; but this will not help him, for it is a Peculiar Church. Next he had Warrant for what he did, as he pleaded, That he did it by Order of the Veftry: I wonder what is this Veftry, and what Power and Authority they have? It is a Place where antiently the Ornaments of the Church were kept; since those Things were gone, there were Meetings by Parishes to agree on Matters of Repair and Affiurments, and Rates for the Church and the Poor; and they did meet sometimes in the Church, and sometimes in the Veftry, no Man of the Parift was excluded. Afterwards, to avoid Tumults and Multiplicity of Voices, some Bishop's had appointed, by special Instructions under their episcopal Seals, that such and such, to a fix Number, should be Veftry-men, and so call'd, and shall order Matters for the Repair of the Church, for Bread and Wine for the Communion, and such like Things, as the Charges about Bells, &c.
And here I shall make bold to remember a Story to your Lordships of what past'd between my Lord Burleigh, my self, and Dr. Bancroft, the then Bishop of London, when I was Vicar of Chelsea.
I was then a young Man, and I had an Opinion that there was sometman in a Veftry; and had a Purpoce which I acquainted my Lord and lordly-able Patron withal, to have some Authority depo'd us in our Veftry, by the Bishop of London our Ordinary; I had my Lord Burleigh's Letter of Conformations, and special Request to the Bishop for the same. His Lordship's Anwer which he gave me was this: If you have Occafion to repair the Church or the Bells, so make Rates for the Poor, and such like Things, this you may do; but if you think otherwise, or aim at any other Power, it shall not be allowed you, and you shall have the Privilege: therefore, I pray you, commend me to my Lord Burleigh, and tell his Lordship I will not incur a Premature, for I have sevenwides to lift.
I conclude, The Veftry hath no Power to meddle with Reformation, nor can the Defendant derive any Power from them: Therefore, as for the Matter of Off-nce, the Picture of God the Father, no Man ever took upon him to paint the Esence of the Deity. But the Question is, whether it be lawful to express God the Father by any Representation? I think it not unlawful in it self. The Eternity of Alpha and Omega doth appear in Christ, and Cirriff is the Image of his Father. As for those divine Holimies of the Church, for forth in King Edward's Days, and that in especial against Idolatry, we know the Times did not hear them; nor are they to be taken or understood, nor to allow any Manner of Pictures or Images (though it may seem so) of Christ upon the Cros; but it is like the forbearing of Food for a Time, as St. Paul, and his Companions, were given over to Scandal unto others, who are weak; I lay that for the Crucifix, there may be a very good Use made of it. As for the Porpoce, he that shall look upon a Crucifix to adore it, or give any divine Worship thereunto, he must needs think with himself, how can I but grive and mourn for the Sins of mine, which could not be expiated but by my Saviour's Blood upon the Cross? And then I cannot but think of the great Love of our Lord Jesus Christ to Mankind, that vouchsafed to die for my Sins. And then, it serves to increase my Confidence in him, by considering that he has given himself for me, and promised that I shall not want anything that is good for me; and that he will not deny me any thing in Pray, praying which I agreeable to his Will, so that this must needs work a deep Impression on my Heart. I thus think; but when it cometh to be Superstitious, or that some make it a Caufe of Idolatry, I must confefs, I would then rather want the Thing, and all the good Uses of it, than incur the danger of propagating Idolatry. That reverend yfvel, Bishop of Salisbury, in his Time had a Communion, and he took down all idolatrous Windows in the Churches, and in place thereof clear Glasses, but he left alone this Window; and surely, if he had thought it to be idolatrous, he would have reformed this Window: whereas I was of Opinion which hath the Words, That Christ is of our Substance with the Father; therefore the Image of the Son is the Image of the Father, and therefore it cannot be Idolatry simply to make it. But grant that it was a Caufe of Idolatry, might Mr. Shefield or the Veftry take it down? He faith in his Anwer, that himself and four others of the Veftry are Justices of the Peace, and not altogether private Men. I would ask him this Question, whether as Justices of the Peace, they are to meddle with Reformation in the Church? It is plain they are not; yet, as a private Man, he hath undertaken to break this Window; whereas it is improbable that any Thing in the Veftry was to take it down: neither was it meant that he should do it himself. But by the Glazier, and set up new Glasses in the room of it; but he hath not followed this notion. My Brother, that fluthch by me, hath very well and learnedly spoken of the Authority by which these Things ought to be done. I cannot add to what hath been said by him, I shall therefore (because much Time hath been already spent) only insist on one Thing in the Defendant's Anwer, and to conclude my Sentence. He faith, the Authority which the late Queen had to reform and fet forth those her Injunctions, were given to her by the Parliament. This is the State of a Liza, but is an Act Declaratory, not to be taken as if without it the Queen had no Power to meddle with those Things of the Church; for this Authority was vested in the Crown, and is still without the Parliament. He that said per me Reges vagans, gives this Authority to the King; it is good to meet with growing Evils, we know not how great a Fire may be kindled with a small Spark. I cannot therefore do otherwise but agree.
agree to Fine and Confine him highly, having offended with so many Circumstances of Aggravation, as have been well opened by divers of your Lordships before me; therefore my Sentence is, that I confer with my Lord Coningsburn in all the Parts of his Sentence.

Lord Coventry, Lord Keeper of the Great Seal of England. This Castle, my Lords, I doubt not will produce a good Effect; for this great Audience consisting of Gentlemen from all Parts of the Kingdom, cannot but be satisfied that we think it not fit nor lawful to represent the Deity by Picture, and consequently we condemn Raimfo Superstition; and on the other side, that we are resolutely bent to maintain the Government by the reverend Fathers of the Church, the Bishops. And all this I think fit to be carefully expressed in drawing up the Sentence. This I must premise, that when I speak my Conscience I be not mistaken, I am no Worshipper of graven Images; nor on the other side, as I of that peevish turbulent Humour with others. For the Charges in the Bill, if they had been proved, I should for my part have trebled the Fine set by any of your Lordships. There was never Caute worse proscribed, yet we are to consider how much this Act proved against the Defender. The Procurator caufeth the Information to be exhibited against this Defendant and ten others; but these ten are not so much as proceeded to answer. First, to speak to these Things that are not proved, but only charged upon him.

First, He is charged with Inconformity, therefore it was necessary for him to discharge himself of it by his Proof, which he hath done, and no doubt remaineth in me to the contrary; for the Procurator, tho' apt enough to charge him with this, yet he exhibith not a Witness or Interrogatory to prove it.

Secondly, That he did this in Contempt of the Ecclesiastical Power, and contrary to the Lord Bishop's Act. This is true; but it is not proved that he had any Notice of it before the Act was done, and therefore the Oath of the Party is to be believed: nay, there was no Endeavour to prove it, so far as I see. And I like not so well Mr. Chancellor's moving the Bishop to make an Act to continue this Window, if it were for any other Caute than to preserve the Ecclesiastical Jurisdiction. Mr. Chancellor should have done well to have declared this Dislike and Scandal to the Window to my Lord Bishop of Sarum, and he no doubt, would have removed it. I do not say the Bishop or Ecclesiastical Judge is unjust in his Notice of his judicial Acts in their ordinary Proceedings in Course of the Ecclesiastical Laws, and their own Jurisdictions: But if you will charge a Man upon a Contempt in a criminal Court, as here you must, then prove he hath Notice of the Inhibition: for else it is but Ignorantia Juris, which in the ordinary Way will not excuse; and yet if it were Ignorantia Juris, I do not see but in so high a Court of Prosecution as in this Court, it might in some Cases diminish a Fault: but this is Ignorantia falsi in a Picture.

Thirdly, That he did profanely demolish this Window, containing a Representation of the Creation. This giveth Occasion to look a little into the Nature of these Pictures; I conceive them to be unlawful and irreleligious Pictures of God the Father. Two of the Witness lay they were Idolatrous, and made to represent God the Father; that it is God the Son's Picture, there is no Proof.

I think that Opinion of making the Image of God according to that of Daniel (calling God the Antient of Days) in the Form of an antient Man, is (as my Lord of London hath said) erroneously ground; and also to bring God as he appeared unto Daniel to be presented in the Creation, which was long before, is somewhat improper.

Fourthly, That then Mr. Sherfield befoated of it, it is not proved that he did, and it is evident that he doth not boast of it.

Now for what is charged upon him, and first, that under Colour of the Vellry's Order, he did the same, and without the Bishop of Sarum. And for an Answer what Vellries are, I read not of a Vellry in our Book of Common-Law; I read much of Church-wardens, and their Doings. If it be a Meeting of the Miniller, Church-wardens, and Parishioners, it is a good Meeting, and they may well deal in Matters of Reparation, not Reformation; and this is not derogatory from the Authority of the Bishop, but subordinato to it. But it may be throu' the Neglect of the Prelates, the Vellries do incroach upon their Government; and will be more disorderly, if they be not regulated. My Lord of London did, in the beginning of this Caute, well declare, that the Archdeacon is magnus Oraus Episcopi; it were fit for the to do their Duties, and so such Things should not be left to be done unto the Men of the Parish, I mean to the Vellry-men. Now, in the Vellry they make an Order that this Window may be taken down by Mr. Sherfield. I do not say nor believe they have Power to Reform; yet he pro- veth by way of Preceptio for sixty-nine Years they have made Reparations and Meetings. But howsoever he doth not purse his Order; and this indeed was not Discretion in him. But if he had taken down white Glafs, I do not see any Reason why I should sentence him; this being not proscribed in an Ecclesiastical ordinary Course. The Bishops Council on both sides has carried themselves in the Caule extremely well; and for their yielding it to be a parochial Church, it is well done, and no Fault is to be put on the Party for his Protefaction; for I cannot think but when he made his Answer, he was of Opinion it was a Lay-Fee, he sweareth it; and being he now confesseth it to be subjetic to the Bishop, his Fault is a great deal the less, in as much as it now appeareth, he doth not oppose the Ecclesiastical Authority.

I am glad to hear what I have heard this Day from my Lords who have spoken, and from my Lady. It giveth me great Comfort to hear, it appeareth that nothing hath fallen from them or any here present, to allow the Portraying of the Deity, or the Worthipping of Images.

I am much inclined to that Opinion of Mr. Secretary Cooke, That be be fastened by way of Reprehension and Abanantion; I bold fit that he make his Acknowledgement before my Lord Bishop, and repair this broken Window in decent Manner. I am loth he should be put to any heavy Fine, the rather because he hath not been proscribed in an Ecclesiastical Course; therefore I give no Fine at all.

The Potes of the said Lords and others of his Majesty's Privy-Council, were thus dispated.

Nine agreed to set 1000l. Fine upon Mr. Sherfield, the Defendant, and be should be put out of his Place of Recorder, he be bound to the good Behaviour, and make open Acknowledgement of his Fault in the Church of St. Edmonds, where the Offence was done, and likewise in the Cathedral Church of Sarum, before
fore the Bishop there, and the Dean and Prefects of that Church.

And Nine others (my Lord Keeper's Voice being one) agreed that he should not be disfrocked, that he should make Acknowledgment in private to the Bishop of Sarum of the said Offence, and in such Manner, and before such Persons as the said Bishop of Sarum should think fit. And for the King's Peace, there were again divided; four (whereof my Lord Keeper was one) gave no fine at all, and five did give their Voices to set a Fine; four of them set 500 Marks, and one of them, viz., my Lord Chief Justice Richardson set 500 l, which Fine of 500 l. was taken for the King, because according to the Rules and Orders of the Court of Star-Chamber, when there is difference of Fines in an odd, the King is to have the middle Fine. Therefore the Sentence of the Court was (and is thus entered.)

- The Defendant being troubled in Conscience,
- and grieved with the sight of the Pictures which
- were in a Glass-Window in the Church of St.
- Edward in New Sarum, one of the said Pictures,
- to his Understanding, being made to represent
- God the Father; did procure an Order to be
- made by the Veftry (whereof himself was a
- Member) that the Window should be taken
- down; so as the Defendant did, at his own
- Charge, glaze it again with white Glass: and
- by colour of this Order, the Defendant, with
- out acquiring the Bishop, or his Chancellor
- therewith, got himself into the Church, made
- the Doors fall to him, and then, with his Staff,
- brake divers Holes in the said painted Window,
- wherein was described the Creation of the
- World; and for this Offence committed, with
- neglect of episcopal Authority, from whom
- the Veftry derive their Authority, and by colour
- of an Order of Veftry, who have no Power
- to alter or reform any of the Ornaments of the
- Church, the Defendant was committed to the
- Fleet, fined 500 l. and ordered to repair to the
- Lord Bishop of his Diocese, and there make an
- acknowledgment of his Offence and Contempt,
- before such Persons as the Bishop would call
- unto him.

XXXIV. Proceedings against William Prynn Esq., in
the Star-Chamber, for Writing and Publishing a Book
intitled, Hiftromaltix, or a Scourge for Stage-Players, &c.
against Michael Sparkes for Printing, and against
William Buckner for Licencing the said Book; the
7th of February, 1652. 9 Car. I.

He 7th of February Mr. William Prynn, Utter-Barrister of Lincoln's Inn, was brought to the Star-Chamber; together with Michael Sparkes, William Backer, and four other Defendants, upon Mr. Attorney Noy's Information; which being opened by Mr. Hudson of Grays-Inn, did set forth, That about 8 Car. Reg. Mr. Prynn compiled and put in Print a Libellous Volume, entitled by the Name of Hiftromaltix, against Plays, Masques, Dances, &c. And also he knew well, that his Majesty's Royal Queen, Lords of the Council, &c. were in their publick Festivals, and other Times, present Spectators of some Masques and Dances, and many recreations that were tolerable, and in themselves findelef, and to published to be, by a Book printed in the Time of his Majesty's Royal Father; yet Mr. Prynn, in his Book, hath railed, not only against Stage-Plays, Comedies, Dances, and all other Exercitings of the People, and against all such as behold them, but farther and particular against Hunting, Publick Festivals, Christians-keeping, Bawdies, and Maypools; nay, against the drefsing up of a

House with Green-Ivy. And to manifest his evil and mischieffull Deign in publishing of this Libel, he hath therein written divers Incitements, to stir up the People to Discontent, as if there were but few Caufe to lay violent Hands on their Prince; and hath expressed in many Speeches against his Majesty, and his Household, infamous Terms unfit for so sacred a Persoon. He hath called an Alperson upon her Majesty the Queen, and railing and uncharitablie Censures against all Christian People. He hath commended all those that are fashious Persoons, that have vented any thing in any Book against the State, as the infamous Book of Dr. Lighten, fo. Marius a Jefuit, to draw the People from his Majesty's Government, which is of most dangerous consequence to the Realm and State. His Book is of above 1000 Pages: and he dealt with one Michael Sparkes for the Publishing, Linenenting, and Printing thereof, who is a Persoon that is a common Publisher of unlawful and unlicensed Books; and dealt also with Mr. Backer, another Defendant, for the allowing of it for the Pref, and with the other four Defendants to print part of it, and publish the fame:

† The Queen had ailed a Port breffly, to a Peafant at Sommice-Houfe: and this Book of Prynn's was found, as he alfo was, there being a Reference in it, Women-Actors unorious Whores; who's in truth the Book was publifhed five Weeks before the Queen's illing. Whitlock's Mem. 18.
and by this means this Volume was allowed and
published, to the great Scandal of the whole
Realm. And to have this punished according to
the Demerit of the Caufe, is the end of Mr. At-
torney's Information.

Mr. Atkins of Lincolns-Inn (aferwards a Judge
in the Court of Common-Pleas) opened Mr. Prym's
Answer; That he had said Mr. Prym taking into
his favour Confederation the frequent Recurt of
fifure ports of People to common Stage-Plays
about the City of London; and having read divers
Comedies, Laws and Statutes of this and other
Realms, against the frequenting of common Stage-
Plays, and the Judgment and Opinion of several
Divines, and other antient Authors, and divers
English Writers allowed by piblick Authority,
and his own Judgment running with trufc; not
intending to reflect, or to have relation to
the King, Queen, State, or Government, or your
Lordships, did about seven Years ago, compile
this Book entitled Mirifracntrix which is no more
but a Collection of divers Arguments and Authori-
ties against common Stage-Plays. That about
four Years since, he did comm.: the fame to Mi-
thal Synes, one of the Defendants, to be com-
municated to such Persons as then had Authority to
licen Books for the Pref. Sprakes did carry it to
Mr. King, belonging to the late Archbishop of
Canterbury; and before he had perused this Book,
Mr. Buckner had Authority to allow of the Books,
to the Preb.: Sprakes brought this Book to Mr.
Buckner, who kept it by him three Months, in
which time it did fully peruse it. In the interim,
he gave part of the Book to Sprakes to print, and
kept the rest till he had perused it, and said,
that he should have that also to the Pref. In October
following, he carried this Copy with the Licence,
and caused them to be entered into Stationers-Hall,
and did compound with those that had Authority
for the printing of this Book. It was printed pub-
lickly, and not secretly; and because there were
some of the Copies close written, he causd them
to be brought again to peruse, to the intent that
he might not be deceived in them; and as he saw
cut, corrected them accordingly. That in Esfer-
Term was Twelve-month, the Epifile, and the
whole first part of the Book was printed; and he
had time to examine it between Esfer-Term and
Trinity, and then he did make fuch Alterations as
he saw caur, viz. in Page 771, &c. And after-
wards the Second Part, and two Sheets of the In-
dex of the Book was likewise printed, and there
were likewise brought to Mr. Buckner; so that the
whole Book, with both Term, is about Christmas
following, which was Christmas was a
Twelve month. Mr. Buckner lent for Mr. Prym,
and the Stationer was defirous that the Book
might be published, and that he might fend some
Volumes to him: but Mr. Buckner said, he could
with the word (Pity) in fuch a Page might be left
out; and I wish with Mr. Buckner, that Pity may
be added to every Page of the Book. So when
Mr. Prym law this all this from him, that had Licence
to allow printed Books, he conceived it a sufficient
Warrant for his Proceedings. And for that which
is alleged in the Information, of Mr. Prym's com-
mending Dr. Leighten, for which the Doctor re-
ceived a Centifre in the Court, in the Quotation
whereof, viz. his Book, and of others...he atle-
ted to their Meaning so far as, and wherein they
are agreeable to the Law: and this Book was
printed long before Dr. Leighten was question'd in
this Court. And as for encouraging of others to
be fabetic or felonious, he faith upon his Oath,
that he was fo far from Difloyalty, Schifm, or
Sectia, or Negleof the King, State, or Go-
vernment, that he hath with much Joy, Cearful-
ness, and Thankfulnes God, ever acknowledg-
ed his, and the reft of the King's Subject's Happi-
ness, by the Peace we have under his Majesty's
happy Government; and this Anwer and Inten-
tion is sincere, tho' other Contraction be made
upon him. He faith, he hath taken his Oath of
Sincerely and Allegiance in the University and Imns
of Court where he hath taken his Degree. That
it never came into his Thoughts to approve of
Schifm or Sectio: and if any thing in his Book,
contrary to his Meaning, hath a Mif-contruction
wards his Majesty's Government, State, or your
Lordships, he doth proftrate himself at his Ma-
Jesty's Royal Feet, and crave Pardon and Grace.
And he doth appeal to your Lordships Interpreta-
tions of thofe Parts of this Book; and doth withal
defire your Lordships Favour, and to take it into
your Conreflection, that he hath been a year Pris-
oner in the Tower: And this is the Substance of
his Anwer.

Mr. Jenkins of Greys-Inn opened the Anwer
for four of the Defendants. First, for the poor
Widow he faith, For any manner of Combination,
or Knowledge of this Book, or of the Contents of
it, &c. the knowne nothing. For the ref, they
all fay, They being illiterate, were not able to
judge whether it were fit to pafs the Pref, or not;
that the Book was licenc'd to be printed, allowed
after it was printed, and before it was published,
and it was entred in the Stationers-Hall, and the
Warden there allowed and subscribed it to be a
Book paffable. The Book hath been three Years
in the Pref. All this time was paffed before it was
printed: there were Searches made during this
time, and they came unto the Pref. They faw
the Book being printed in a publick way, and not in
Corner, or privately printed, as is alledged in the
Information; and it was printed and published,
and some of the Books fold by Sprakes: and Sprakes
faith, the printing of this Book coft him almoft
500 l. and faith upon his Oath, he folt not many
Books.

And for the Charge upon him, of being a com-
mon Printer of unlawfull Books, he faith, He hath
proffered in his Calling; and fome other Stationers
having an eye upon him for his Thrift, have en-
vied him in publifhing of Books: and leaveth it
to my Lords the Bishops, to know what Success he
hath had in the High-Commiffion.

Mr. Lightfoot of Greys-Inn opened Mr. Buckner's
Anwer. He faith, That he was Chaplain to the late
Archbishop of Canterbury, and dodd approve of
the Church without any scruple, and of all the
Ceremonies of England. Church-Muffick he doth
allow of; bowing at the Name of jefus: Plays,
Mufick, and Dancing, he doth eleven them juft
and lawful. And for thofe Centifres againft Ecc-
cleleftical Perfons in this Book, he doth, and ever
did abhor and deteft them. He confedth he li-
cenced part of the Book, but never gave order to
deferfe the Book; but when he heard it was publifhed, he did endeavour to fuppofe it; and
to the reft of the Information pleaded Not
Guity.
Then Mr. Nay, Attorney-General, spake as fol- lower: This Volume of Mr. Prynn's is written by himlief, without the help of any Man. There are Passages in it that reflect upon the King, State, and Government, &c. other things reflect upon the Church and Clegy; but for that there is no Charge in the Information, which I found contrary to be left out, and withal I received a Command for the same: Therefore finding the Church so deeply wounded by Mr. Prynn, I do leave her to avenge herself of him, and to inflict such Punishment on him as he deserves. I shall be an humble Servant to the Court, that they would be pleased to command the Profession of those things that concern the Church to the High-Commission. There are diverse Particulars wherewith he is not charged within the Information by way of Crime, and so it is not proper now to bring him into question for them. As for mentioning of Ceremonies, &c. of Delicating Paul's to Diana of the Discipline of the Church; the Complaint of new-created Altars: I wonder what Altars he means, I hope the Church will examine in due time; as also who he means by his modern Innovators in the Church, and by Circling and Ducking to Altars, a fit Term to bellow upon the Church; he learned it of the Canons, being used among them. The Mutilck in the Church, the charitable Term he gives it, is, not to be a Noise of Men, but rather a Blowing of brute Brags; Chrysortes below the Tumor, as it were Owen; bark a Counter-point, as a Kneel of Dogs; roar out a Freble, like a Sort of Bull; grow out a Belfg, as it were a number of Hogs: His Complaint for suppressing Repetitions by way of Convicentes; all his general Censure of all the Bishops, and of all the Clegy; they scorn to feed the Poor, the Silk and Satin Divine; very charitable Terms upon them of the Church! Chrysortes, as it is kept, is a Devil's Chrysortes; nay, he doth bellow a great number of Pages to make Men affect the name of Puritan, as the Chirll were a Puritan, and so he faith in his Index. Then concerning the Images in the Church, he fealeth against them, and pateeth that now in Print, which was contained in an Anfwer in this Court. Also for the Sabbath-day, whether to begin on Saturday Night, and end on Sunday at fix of the Clock. There are things proper to the Examination of the Church; and whatsoever becometh of the rest of the Caufe in this Court, yet I commend these things to the Con sideration of the Church. I wonder what the Man means to bring these things under the Title of Stage-Plays; Plurality under the Title of Stage-Players. He had an End in it, he had an End in it.

Now concerning the Book itself: This Book, said Mr. Nay, it is the Winner, it doth testify what was his Intention, and by the Book he is to be judged. If it had been found in the Street, and of Mr. Prynn's compiling, and brought to this Court, and Consideration taken of it, the Court would proceed without a Party against Mr. Prynn. And here Mr. Attorney recited a precedent of one that wrote a Book, and it was brought to the Council. It was demanded, who was the Author? Anfwer was made, The Book was the Author. Shall a Heretic go unpunished? This Book, it is Mr. Prynn's Book, he doth not by his Name to it, he swears he did write it all.

Then for the time of compiling it; even or eight Years ago it was compiled, and it is grown seven times bigger than at the first. Mr. Prynn, about eight Years since, wras it to Dr. Gode, who told him to good Caues of Diflike, that might make any reasonable Man give it over. About seven Years ago he came to Dr. Hartly, to define his Opinion of the Book; and he told him, it was not his Intention to come to the Preb. In the Parliament-time, before the Year 1630, he gave some part of it to be printed; but it came not to Mr. Buckler till long after. Sparks said, he would print any thing in Parliament-time.

Now we are to consider two things, from the first compiling and printing of this Book, to the left: First, how it grew in Volume; for after it was delivered to the Preb, it hath grown up with divers things, which then were imposibill to be known at that time, when it was delivered to the Preb; which appears by this. In 1638 was the Parliament, and in 1631 St. George began to look abroad into the World. This Man bellow eight whole Pages upon St. George, for being so bold to look out. He faiths, That St. George the Aryan was a Cappaesius, th' born in Celicia, a Part or Province of Cappadoceia, &c. and that St. George's Advocate was an Ephesian, born in Glencoefer; and that St. Boff the Great was Bishop of Caffara in Cappadoceia, the native Country of St. George the Aryan. Certainly he could not tell that St. George would then remove himself abroad, or in the Country of Glencoefer, &c. at that time: but it Man did go on according to the Occasion in 1638. A Woman, in 1638, asked a piece of a Stage-Play at Blacksfyers; he sends many Pages about this.

We all know what time the Death was, three Years ago; he talkeeth occasion not to pafs it over. He maketh a long Discourse of Plays, Matques, &c. in the last penurious Times, how they were as expensive as the Wars were. This is to shew how by pieces it did grow bigger from time to time.

All Stage-Players he terms them Rogues: in this he doth fulfill the very Act of Parliament, for unless they go abroad, they are not Rogues. The same Term he giveth unto Scholars acting. Mr. Prynn had a Purpuse, not only in this to fall upon Stage-Plays, but upon the Body of the Commonwealth; and to infuce it into Men's Minds, that we are now running into Paganism and Gentilism. He faileth upon those things that have not relation to Stage-Plays, Mufick, Mufick in the Church, Dancing, New-year's Gifts, whether Witchery, or not. Witchery, Church-Ceremonies, &c. indifferently he faileth upon them; then upon Altars, Images, Hair of Men and Women, Bishops and Bishops. Cards and Tables do offend him, and Perukes do fall within the compass of his Theme. St. George never offended him; but all this is to the end to bring a Belief among the People, that we are returning back again to Paganism. His end is therefore to persuade Men to go and serve God in another Country, as many are gone already, and set up new Laws and Fancies among themselves. Consider what may come of it.

It may be fit enough and lawful to write against Plays, by Men that have a Million; and they must not be stopped with a few Earned in mannerly Terms, and in the same Terms as other Men expect to bear with them.

Mr.
Mr. Prym had no Miffion to meddle with these things, to see whether Men should not return to Gentilism; or the Terms which he useth are such as he finds among the Oyster-Women at Billinggate, or at the common Confinel. He hath rated up all the vile Terms that could be found.

Now to prove that this is Mr. Prym's Book, read Mr. Prym's Examination, Inter. 4th, which being read, was to this effect: That Mr. Prym, without the help of any other, did write, pen and compile the whole Book, called Hystria-magicks, and the Epistle before the Book, and the Index and Table following.

Now for the publishing of this Book, it doth appear by the Deposition of Dr. Gonde, that about eight Years since, Mr. Prym did bring a Book to him in Writing, of about a Quire of Paper, concerning Stage-Plays, to have the fame licent, but he left it until it was to be allowed; and doth well remember, that as to his Argument of the Unlawfulness for a Man to put on Woman's Apparel, he put Mr. Prym this Question: Suppose, Mr. Prym, your self, as a Christian, were perfected by Pagans, think you not, if you did disguise your self in your Maid's Apparel, you did well? Who answered, That he thought himself rather bound to yield to death than to do so.

Dr. Harris also deposed, That about seven Years ago, Mr. Prym came to him to licent a Treatise concerning Stage-Plays, but he would not allow of the same. So this Man did deliver this Book when it was young and tender, and would have had it then printed; but it is since grown seven times bigger, and seven times worse.

Now we shall now prove when it went to the Prieez. Read Anfhu the Statoner to Interrogatory the 12th, which being read, was to this effect: That the said Book called Hystria-magicks, was given to this Deponent, in or about the Earl Parliament, at which time seven Sheets thereof were printed at this Deponent's House; which this Deponent so printed, at the request of Mr. Prym and Mr. Spinaker, upon Mr. Prym's Information, that it was licent, and that he would bring the hand of the Licentor into it: But this Deponent did refuse to print any more of the same.

Read Joseph H. to prove, that Sparks would set upon it unlearned in Parliament-time. Inter. 16. who faith, That the Defendant Sparks did, in the time of the late Parliament, print, or cause to be printed, divers Books without Licence; whereof some were Mr. Prym's, some were Mr. Burton's Works: and this Deponent hath heard Sparks say, he durst print any thing in Parliament-time. Another part of the Charge was managed by Mr. Roben of Lincoln's-Inn, reckoning up the number of Exits whereof Mr. Prym had aspired all sorts of People: and he said, that it was a Libel, not only against the State, but against every particular Person; and proved the Charge by divers Passages contained in the Book, Vol. 201, 260.

Afterwards Mr. Ne returned in the further making good of his Charge against Mr. Prym.

May it please your Lordship,
As he hath fallen upon all Things, all Persons, all Sexes; upon the Magistrates, upon the Household of the King; so he hath not spared the King himself. I am sorry I shall have occasion to speak any thing of it; but there is a great deal too much in his Book. My Lords, after he hath made all these Complaints as intolerable, he calleth upon all indifferently, and never taketh upon him to discern, to make a Difference, that there may be a Toleration, but calleth foul upon every thing, that we are falling into Paganism, Men and Women are taught; he sparteht not the King himself, but taketh upon him to teach a Remedy; the Remedy is worse than the Disease. What hateful Combinations he bringeth with other Principles? as Nero; and speaketh of the committing of the Treason of the Realm with Mafques, and of the late penurious Times; a bare Ward! A Declaration of Infirmity upon Princes, with such-like Conclusions as these are. When all this is done, he teacheth the Remedy not by way of Precept, but by way of Example; invites Men to read John Mariana, and two grave Authors more, he faith Men not cenfured. I am very sorry I am to speak any thing wherein the King should be named, but he would not forbear it when the Pen was in his Hand; some of the Words are so nasty that I will not speak them.

After Mr. Attorney General had spoken, he called for these Passages, amongst others, in Hystria-magicks, to be read, etc.

To his Much-bonoured Friends, the Right Worshipful Masters of the Bench of the Honourable Flooring Law-Society of Lincoln's-Inn.

HAVING, upon my first arrival here in London, heard and seen in four federal Plays (to which the preffing Importance of some of their much defir'd Reformations was added) made my present Heart to loath, my Confi- dence to abhor all Stage-Players ever since; and having then likewise obferved some woful Experiments of the low, malicious Fruits of Plays, of Play-houses, in some young Gentlemen of my Acquaintance; who tho' civil and chaste at first, became so vicious, prodigal, indecent, debauched (yea too far past all hopes of Amend- ment) in half a year's space or les, by their refort to Plays, where Witches and lued Companions had invaded them; that after many Effays of several much defir'd Reformation, two of them were call'd and utterly diaboliz'd by their loving Parents; whom I heard oft complaining, even with Tears, that Plays and Play-houses had undone their Children, to their no small Vexa- tion, (a good Caevat for all young Students to keep themselves from Play-houses, by these two Youngsters Harms;) Hereupon I resolved, out of a defire of the publick Good, to oppugne so common Vice-fomenting Evils: for which pur- pose about seven years since, recollecting those Play-condemning Passages, which I had met with in the Fathers and other Authors, I di- ged them into one entire written Difcourse; in which I have since, that time interlaid among its intended Bolus, because I knew the number of Players, Play-Books, Play-Hauntings, and Play- houses (ill increasing; there being above Forty thousand Play-Books printed within these two years (as Staturers inform me) they being now more vendible than the choicest Sermons; two
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Prynn, Sparkes, 9 Car. I.

old Play-houses being also lately re-edified, en-
larged, and one new Theatre erected: the mul-
titude of our London Play-Haunters being so
augmented now, that all the eminent Devils Chas-
ple for to the Fattes fyle all Play-houses) be-
ing five in number, are not sufficient to contain
their Troops; whereas we see a flock now added
sion: whereas even in vicious Nero's Reign,
there were but three flamingle Theatres in Pagan
Rome, the far more fantastic than our Christian
London, and those too many. Hereupon
I first commended it, being thus augmented, to
the Licensor, and from him unto the Prefect, where
it had linger'd longer than I did expect; which
being now at last brought forth into the World,
in such a Play-colored Age, that is like to bid
defiance to it; I here beseech it to your wor-
thy Patronage, to whom it was first devoted,
not caring how it fares abroad, so it may do
good and please at home.

In the next place Mr. Attorney Naycaud to be
read out of the Book of Hisfrio-nuiftis, such
Paffages, as were scandalous to the King and Go-
vernment, as Fol. 312, &c.

Mr. Atkins, in defence of Mr. Prynn, saith, That
the Eloquence of those Gentlemen who argued
against Mr. Prynn, made an Exposition which was
no part of his Intention, in which point he would
endeavour to clear him; and the way was by let-
ting their Lordships know, that many Pfaffages in
that Book are only relative Spoken, and not
positive, and most of them are but the Affirma-
tions of other Authors of several Kinds and Pro-
fessions: as it is said, that such incarnate Devils as frequent Plays, &c. he speaketh by the
way of common frequenting of Plays, left they
prove incarnate Devils; and so of Ladies that cast
off their Nature and Modesty, that is relatively
spoken by frequenting Plays, lascivious Dancing,
&c. and when he speaketh of those in a continual
Proposition, his Argument is thus:
That which doth ordinarily (if not always)
deifie the Eyes, the Ears, and Souls both of the
Actors and Spectators, by ingraining, by exci-
ting meretricious, licend, lewd and impious De-
Hires and Affections, in their Hearts, or by insti-
guishing, by preparing, by inducing them to ac-
culate Uncleanness, must needs be abominable and
unlawful unto Christians; and these Stage-Plays,
&c. therefore they must needs be abominable.
And there is none but Whores, Panders, or foul
incarnate Devils, who dare control that minor
Truth.

My Lords, He doth not condemn New-years-
Gits, but acknowledgeth them to be as Tokens
and Testimonies of Favour and Respect from Su-
prior's to their Inferiors; and for Dancing (under
favour) he doth not condemn it at all; he hath
commended the fame as fingle, and dancing the
Maitres: And for dancing in great Men and
Princes he doth protest it was far from his
thought to compare the Times to Nero's, under
so fious and religious a Prince as we have, and
by whom we receive so much Happines. That had
been to impious and unworthy, that he could by
no means make any Apology; but as well his Po-
son as his Pen should have been destitute, if he
had made any such Comparison.

And where he doth speak, that Dancing and
Maquing have been near as expensiv as the
Wars, in that he means in Henry the VIIIth's
Time, and not in these Days; as I take it, he
speaks there of a History, that doth express the
great Charge in that time.

I shall desire, as I did begin in the opening of
his Answer, that he may lay fift hold upon the
Rock of the King's Favour and Mercy, and Com-
passion of this Court; and what his Intentions
are, they are best known to his own Heart, his
Expressions known to your Lordships. I cannot
condemn his Heart, I will not excuse his Pen.

This, if your Lordships will give me leave, I
shall say: I have long known him in a Society
of Inns of Court, where he has lived; and for his
ordinary Discourses (except the Matters in this
Book) they have not been factious or contentious.
But now he is before your Lordships, truly for my
part, I compare him to the Condition of an Afro-
noom, who fixed his Eyes so much upon the Speech,
that he did not look to his Feet, and fell into a
Ditch: for his Eyes were so fixed upon this Sub-
ject, upon the common Refort to Stage-Plays,
and the great Abuse that comes by them, that he
forgot to look down to his Hand that guided his
Pen, which now bringeth him under your Lord-
ships Censure.

That I may not offend the Patience of this Court,
(the Court is full, and the Expectation is great)
I will conclude with all Humility, and with
and crave, that he who is the supreme Judge, may
be with your Lordships in this Matter, and may
be known to all your good Thoughts, Judgments and
Sentences this Day, in this Cause of this poor Gen-
tleman. And this is all I humbly offer in Defence.

The next Day of Hearing, Mr. Hallyaur, of
Counsel with Mr. Prynn, spake thus:

My Lords,
I am assigned Counselor with Mr. Prynn. The
Information is for publishing in Print a Libel or
Volume of Libels against King, Queen, State, &c.
My Lords, for Mr. Prynn, he doth humbly call
himself at your Lordships Feet. For the Book,
I must say, he doth humbly submit himself to your
Lordships Mercy; but yet, my Lords, his Heart will
do not give him leave to think, that he is guilty of
those great Offences that are laid to his Charge. He
confesieth himself to be justly brought before your
Lordships for his ill Expessions, which may prove
an occasion of Scandal by Misconstrue, and so
some dangerous Principle may be infused into the
Subjects: And be beggith his Lordships to con-
cider of them, according to the Intentions of his
Heart, which were fair and honest, tho' harth in
Expession, that he may receive a favourable Con-
strue for that he ceth his Authors, and their
Words, and not his own. And for that he med-
cleth with Matters not proper to Stage-Plays, as
in mentioning the Sabbath, his Meaning was,
Stage-Plays upon the Sabbath-Day; his mention-
ning Habits and Recreations, was in relation to
Men putting on Womens Habits, and unlawful
Recreation at Plays, and so he conceiveth them not
altogether importent.

For the Manner of his Writing, he is heartily
fory, that his Style is so bitter, and his Imputa-
tions so unlimited and general; yet in this he was
led thereunto by Authors in the like case, which
he offers for his Excuse: he hopes his Paffion
against these Abuses by Plays may a little plead
his Excuse.

Now
Now, for the Master and Master alluded against him out of his own Book, is that he hopes your Lordships Favour; He faith, that those that are Judges of the Book for Licencai, they are guilty of the Matter, and he hopeth that this Book doth differ from all the Books brought into this Court; for here are none brought but such as are uninfect, and this is licenced: and he submitters thus to that Point.

My Lords, as to the general End and Intention of his Book, he swears, that the general Refurt unto Plays was the first Occasion, and his chief End was for the Reformation of the Abuse of it, and no otherwise: and then, my Lords, he hopeth he shall not incur your Lordships severe Censure. He did not send the Book beyond the Seas to be printed, but printed it here; and it was three Years in the Press, and licenced and publish'd.

And, my Lords, the Declaration to the Information of this Court, speketh something to his Intentions, viz. to whom he dedicated this Book, and he delivered it himself to Men of known Integrity: and certainly if his Heart had been guilty of those foul Crimes, he would not have presented one of those Books to Mr. Attorney Ney himself. He did not abstain himself, as one guilty of such Offences would have done; he was so far from having Dilatory, that he did commend the King and State, and that could not be with an Intention against King and State. And all the Charges that lie upon him for his Fault Intentions, are but Inferences upon his Book, and Consequences, and such of them only that be strained, and not of necessity.

The next thing charged upon him is Perjury, for that he said, he threw not part of this Book to any before it was thrown to Sparkes; yet it was proved by Dr. Harris and Dr. Grane, that they saw it many years ago. As to this he faith, they speak only of his Book concerning Plays, containing a Quire of Paper; and that it is true, he did shew them such a Book: but that Book was not this Book; they be of one Subject and Matter, yet they differ much in Form and Frame.

Then Mr. Herb spake on his behalf as follows:

My Lords,

We that are affiged Council for Mr. Pryns, do come with great Diligence, both in Number and Judgments, considering the great Ability of the King's Counsell, who have spoken against us. If the Construction they have made be theirs, then clearly we are (as they would have us) to fall deep by your Lordships Sentence.

The Weight of this Cause, and the Aggravations upon it by the King's Counsell, made me the last day (without desire of my Client) to crave farther Time, for we durst not then give any Answer. All that I can now say is, That your Lordships would look upon the Intentions of his Heart, in that he hath explained himself as far as any Man can do by his Oath: How is it possible to make other Proof of the clear Intentions of his Heart, than by his Oath? His Oath is admitted as Proof against him, in the Acknowledgment of his Book; and that not be admitted to him, to clear the Integrity of his Heart? We before your Lordships to look upon him, as not writing those things out of Persecution of Spirit, but out of the abundance of his Heart transported with Zeal against the growing Evils, which have befallen many of this Nation, and some of his own Acquaintance, by their frequenting of Stage-Plays. We that know him must say, as far as our Knowledge will give us leave, that in all Passages that have fallen from him to us, he hath express'd himself full of Devotion and Duty to his Majesty and the Queen; and shall humbly take leave to offer some Passages out of his Book, which do bear evidence, that he doth speak well of both their Majesties and of the State; and that by Inferences and Distrinctions there made: and what is it but Inferences made out of other Passages of his Book, which doth reflect upon him? Which Passages were open by the Council, but not read.

Three Star-Chamber Days having been spent in the hearing of this Caufe, the Lords sat the fourth Day to proceed to Sentence, which held till four of the Clock in the Afternoon; and they paffed such Sentence on Mr. Pryns, as is expreffed in the ensuing Speeches, which in effect comprehend all that was said by others.

The first was of Francis Lord Cottington, Chancellor of the Exchequer, whose tone was to begin first to speak, as being in the lowest degree of Quality by his Place. And commonly he that beginneth, as he openeth the matter at large, doth incline thereby many Lords to forbear making of Speeches, and only to declare themselves to concur in Sentence with him that began first, or with some other Lord that spake before, as their Judgments lead them.

My Lords (said my Lord Cottington) His Majesty's Attorney-General hath brought Mr. Pryns before your Lordships, with other Defendants, Master Buckner, Michael Speller, &c. It is for publishing a Libellous Book, or Volume of Libels, to the Scandal of His Majesty and the State. To my understanding it may be more properly said, the great and high Malice of Mr. Pryns, published and declared in that Libellous Book; a Malice expressed in a manner against all Mankind, and the best fort of Mankind, against King, Prince, Peers, Prelates, Magnificates and Governors, and truly in a manner against all things. But that which hath been more remarkable, is, his Spleen against the Church and Government of it; therefore for that I will not sentence him, (because Mr. Attorney doth forbear to proceed) against him, for that which belongeth to the Church) yet it is an argument of his great and high Malice: and when I consider of that, which hath been so often repeated, that he writ this Book alone, surely he was affiled immediately by the Devil himself, or rather he hath affiled the Devil. He hath written a Book against the due Reverence and Honour, which all Christians owe to our Saviour Jesus, this doth convince my Judgement against him; but the Book (as Mr. Attorney faith) declares the Man, it is the Witness: And if your Lordships observe the Particulars and Style of it, you will say it is a strange thing; the very Style doth declare the Intent of the Man, and that is (as Mr. Attorney said) to work a Difcontent and Dislike in the King's People against the Church and Government, and Disobedience to our gracious Soverain the King. If Mr. Pryns should be demand'd what he would have, he like nothing, no State or Sex; Mufick, Dancing, &c. unlawful even in Kings; no kind of Recreation, no kind of Entertainment, no, not so much as Hawking, all are damned. The very truth, Mr. Pryns would have
have a new Government, he would have a new Church, he would have new Laws, new Entertainment, God knows what he would have; a new King he would have, and have all the People of his Mind, to be discontented with their King and Government.

Mr. Prym confesteth he did write the Book, and it's true he did endeavour the printing of it, and the publishing of it, this is proved very well; yea, but Mr. Prym had no other Intention but a Tenderness of Confessions, he meant no hurt to the King or State, (as his Council said) but Mr. Attorney answered them, that he is not the Decretor of his Intentions, he must be judged by the Book, by his Words, more certainly by the effect; for all good Men do receive Scandal by this Book, and all of Mr. Prym's Humour were glad of this Book. When I consider what kind of Libel it is, it is not like other Libels: other Libels have been by Perions discontented, some pour Rogues, fretted up and down; but here's a Libel in Folio, and in Print, and Jolifith it felt by Authors with an high hand, b't is a fine, and that is there. And (my Lords) when I consider those high Passages in his Book, I protest unto you, they are things to be abhorred; they are not spoken relatively (as his Counsel would have it) but positively, That our English Ladies, Women and Childern are not free left their Moflyers, that the Devil is only bussed in Dancings, that Plays are the chief Delight of the Devil, that they that frequent Plays are damned, and are all that do not regard what he in his Opinion, Whereof, Pundins, foul intermate Devils, Judas's to their Lord and Messiah, &c. Princes dancing in their own Court, saying they are their Women, and them of infamous, &c. But the fault of all is, That this was the Craft of untimely Ends in Princes.

My Lords, Shall not all that hear these things think, that it is the Mercy of the King that Mr. Prym is not destroyed? Have we not seen Men lately condemned to be hang'd and quarter'd for far les Matters! One Pickthorn, I was my self employed with others in the examining of him; he confesteth, that the Writing for which he was questioned, was a Sermon, that he did intend to preach; the Words were against the Person of the King, yet he never preached it; yet because he had written it with an Intention to preach it, he was brought upon this Point and condemned to die. But this Book is in Print; it is against all Magistrates, and particularly against the King our Sovereign, and his bleffed Court. And yet, my Lords, it pleaseth his Majestie to let Mr. Prym have his Trial here. I will not trouble your Lordships with any more parts of the Book: Mr. Attorney noted unto your Lordships, that you should know how necessary it was, that Mr. Prym should be kissen out, as one that hath a long time endeavoured to move the People to Discontent against the King, &c. So I say with Mr. Attorney, it is high time that Mr. Prym may be cut off, so far as may go with the Censure of this Court. My Lords, Mr. Prym is better dealt withal, than he would have Princes dealt with; he hath had very fair Trials.

For his Defence, I took notice of it likewise: I do remember that all tho' Gentlemen, that were employed and affliged as Counsel for his Defence, every one of them began to crave Mercy of the Court, yet they came with a Defence and Justification, so far as their Caele would bear. Mr. Hollaar says, That for Players they were Rogues by the Statute: yet Mr. Attorney saith, They are not Rogues by the Statute, unless they swind, &c. My Lords, he said, his Intention was against publick and common Plays, yet seek all his Book thorow, and you shall find it is against Plays in Princes Palaces. His Intention now must be understood by his Book, and by his Words; and that which he doth apply of any Author is his own. And I think his Defence did aggrivate his Offence.

As to his Defence against the Ladies, he saith, he speaks it relatively and not positively; yet he knoweth, Our English Ladies are fo and fo and fo. Mr. Attorney and for that part of his Book, wherein he mentions Murder, Mr. Prym will have Murder unlawful; but Execution of Princes is not Murder, and therefore that is a lawful Act. Mr. Attorney said well, the End of this Man and faka Maria, &c. they are all one, A * Harleian: they all cry Malice against Princes.

I shall humbly crave Pardon, and discharge my Conscience, and shall let your Lordships know, for how I understand the Scene, that so I am to judge; and the common Custom of the Law, then, the Malice of this Book is against King and State: and, my Lords, with this I entreat Mr. Prym.

I do in the first place begin Censure with his Book; I condemn it to be burnt, in the most public manner that can be. The manner in other Countries is, (where such Books are) to be burnt by the Hangman, tho' not used in England, yet I wish it may, in respect of the Strangeins and Heinfouls of the blather contained in it to have a strange manner of burning; therefore I shall be brief in my Censure of the Hangman.

If it may agree with the Court, I do adjudge Mr. Prym to be put from the Bar, and to be for ever incapable of his Professio. I do adjudge him, my Lords, That the Society of Lincoln's-Inn do put him out of the Society; and because he had his Offspring from Oxford (now, with a low Voce, said the Bishop of Canterbury, I am sorry that ever Oxford bred such an evil Member) there to be degraded. And I do condemn Mr. Prym to stand in the Pillory in two Places, in Winchlætter and Cheesebury; and that he shall lose both his Ears, and be put to the Stocks twice, and be publicly declared how foul an Offence it is, to be such as is for so infamous Libel against both their Majesties, State, and Government. And lastly (may not lastly) I do condemn him in 1601, Fine to the King. And lastly, perpetual Impriprisonment.

There are other Defendants, Thomas Buckner, whom I conceive to be the Chaplin charg'd with the Licening of the Book. I observe, that Mr. Attorney hath little or nothing prosecuted against him. It is said, he did combine with the Writer and Stationer for this infamous Libel. It doth appear that he did licencet, or at least 64 Pages thereof; I think he be also true, that Mr. Buckner did see the Book after it was printed. It is said, for his Excuse, That Mr. Buckner was cozen'd and surpriz'd by Mr. Prym and Sparkes; but it's plain he licenced it, or at least 64 Pages: therefore I shall judge according to the Proof, as it is the usual Custom of this Court. I must judge Mr. Buck- ner to be worthy of a very sharp Sentencce, for certainly there is a very great Inconvenience fallen upon the State, for want of the Examination: To what purpose is there an Examination of Books, if there shall be a connivance and winkning at the Party that doth it; I shall think Mr. Buckner not only
only worthy of a severe Reprehension, but I shall entitle him first to have Imprisonment according to the course of the Court, and so I Fine to the King.

Now, my Lords, the next is Michael Sparkes, and he is the third; and he is the Printer of the Book, and Binder, and Publisher thereof. In his Defence he hath showed thy Lordships a piece of the Book licent for Mr. Buckner, and faith, it was all licent; but that he proves not; but that it was entered in the Statutes-Hall, that he proves. But I do find, that he pleaded Men to buy this Book after it was prohibited; and before it was prohibited, he persuaded Men to buy it, saying, It was an excellent Book; and it would be called in, and then fell well. I do fine Sparkes 500 l. to the King, and to stand in the Pillery, without touching of his Ears, with a Paper on his Head to declare his Offence, and it is most necessary in these Times; and for the Pillery to be in Paul's Church-yard. (It is a conferenced Place, faith the Archbishop of Canterbury.) I cry thy Grace's Mercy (find my Lord Cottinlus) then let it be in Chichele. For the other three, I find that Mr. Attorney doth not prostrate them; therefore, my Lords, I do not condemn them.

The next in Court that spoke after the Lord Cottinlus, was the Lord Chief Justice Richardson.

My Lords,

Since I have had the Honour to attend this Court, writing and printing of Books have been exceedingly found fault with, and have received a sharp Censure; and doth grow every day worse and worse; every Man taketh upon himself to understand what he conceiveth, and thinketh he is not only exceptible he be in Print. We are troubled here with a Book, a Monitl, (Manifera Heretica, Inforne, Injure!) It hath been a Question who is the Author of this Book; Surely I am satisfied in my Confidence he is the Author of it: but truly, we give leave, I do not think Mr. Pyran is the only Actor in this Book, but that there were many Heads and Hands therein besides himself; I would to God in Heaven, the Devil, and all else that had the Heads and Hands therein besides Mr. Pyran, were, &c. for I think they are all Villains to the State, and deserve sever Punishment as well as Mr. Pyran doth. This Book is the Subject of this Day's Work, and it is annexed, by Mr. Attorney, to the very Information in itself.

For the Book, I do hold it a most scandalous, infamous Libel to the King's Majesty, a most pious and religious King; to the Queen's Majesty, a most excellent and gracious Queen, such as this kingdom never enjoyed the like, and I think the Earth never had a better. It is scandalous to all those honourable Lords, and the Kingdom it self, and all parts of People. I say, Eye never saw, nor Ear ever heard of such a clamorous and detestable thing as this mis-shapen Monster is. How scandalous a thing it is, hath appeared already to your Lordships, by the King and Queen's Council against Mr. Pyran; I will not for my part repeat.

Yet give me leave to read a word or two, where he commit to tell your Lordships of the Reasons why he writ this Book: Because he saw the Number of the Plays, Play-Books, Play-House, and Play-houses, so exceedingly increased, there being above forty thousand Play-Books, being now more

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