committed or done, in any Place except or not exempt, within this Our Realm, according to the Tenor of the Ecclesiastical Laws in that Behalf: Granting you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, and every Officer and Authority for orders and such other Punishments to every Officer, by Conferences of the Church, or other Lawful Ways, as is aforesaid. And further, we do give full Power and Authority unto you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, and every Officer and Authority to every Officer, in any of the Premises, and also all such as by you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, shall seem to be suspected Persons in any of the Premises, and them to examine, teaching every one of the Premises which you shall object against them, and to proceed against them, and every one of them, as the Nature and Quality of the Offence, or Suspicion in that Behalf shall require: And also to call all such Witnesses, or any other Persons or Persons that can inform you concerning any of the Premises, as you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, and them, and every one of them, to examine upon their corporal Oaths, for the better Trial and Opening of the Truth of the Premises, or any Part thereof. And if you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, shall find any Person or Persons whatsoever obstinate or disdainful, in their Appearance before you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, shall call any Person or Persons or any such other Officers, or any Person or Persons whatsoever, in their Appearance before you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, shall have full Power and Authority to punish the same Person or Persons so offending, by Excommunication, Suspension, Deposition, or any other Conferences Ecclesiastical; and to bind any Person or Persons shall be convicted or presented before you, as aforesaid, for any of the Causes above expressed, at the Influence and force of any Person powerfull or any Officer in that Behalf, that then you, or any three or more of you, as is aforesaid, whereby you the said Lord Chancellor to be one, shall have full Power and Authority to accord such Costs and Expenses of the Suit, as well as to and against the Party as shall prefer or prosecute the said Offence, as to and against any Party or Parties that shall be convicted, according as their Costs shall require, and to you in Justice shall be thought reasonable. And further Our Will and Pleasure is, That you assure our Well-beloved Subject William Bridgman, Esquire, one of the Clerks of our Council, or his sufficent Deputy or Deputy, or any other Person or Persons, by Virtue of this Our Commission, and that in the Manner you, or any three or more of you, whereby you the said Lord Chancellor to be one, by your Discretions shall appoint one or more Messengers or Messengers, or other Officer or Officers necessary and convenient to attend upon you for any Service in this Behalf. Our Will and expressly Commandment also is, That there shall be two Paper Books indented and made, the one to remain with the said Register, or his sufficient Deputy or Deputy, the other with such Persons, and in such Place as you the said Lord Commissioners, or any three or more of you, whereby you the said Lord Chancellor to be one, shall cause to be put and fixed a Seal, wrought with a Rose and Crown, and the Letter L. and Figure 2 before, and the Letter R. after the same, with a King or Crown.
Circumstances about the same Seat, containing as follows, Sigillum Comissionariorum Regis Majestatis et Canum Ecclesiae. Finally, We will and command all and singular other our Ministri and Subjects in all and every Place and Places, exempt and not exempt, within our Realm of England, and Dominion of Wales, upon any Knowledge or Request from you, or any three or more of you, as is aforesaid, to them, or any of them, given or made, to be aiding, helping, or afflicting unto your Commandments, in and for the due executing your Precepts, Letters, and other Precepts, requites in and for the due executing of this Our Commission, as they and every of them under Your PLENITUE, and will suffer the contrary at their own Peril. In Witness, &c.

The King's Letter.

Dated Monday, June the 14th.
Delivered at Falmouth on Thursday, being the 17th of the same June, in the Afternoon, by Mr. Anthony the Meffenger.

JAMES R.

R Iebe Reverend Father in God, We give you well. Whereas We have been informed, and are fully satisfied, that Dr. John Sharp, Rector of the Parish-Church of St. Giles in the Fields, in the County of Middlesex, and in your Diocese, withstanding Our late Letter to the most Reverend Fathers in God the Archbishops of Canterbury and York, and our Declaration concerning Preachers, given at our Court at Whitehall, the 15th of March, 1685, in the second Year of Our Reign; yet be, the said Dr. John Sharp, in Contempt of the said Orders, hath in June of the present Year, both once proached, presumed to make unsundry Reflections, and to utter such Expressions as were not fit or proper for him; endeavouring thereby to derogate in the Minds of his Hearers an evil Opinion of Us and our Government, by imputing Fears and Jealousies, to disjoin them to Discontent, and to lead them into Disobedience and Rebellion. These are therefore to require and command you immediately upon Receipt hereof, forthwith to send him from further Preaching in any Parish-Church or Chapel in your Diocese, until he has given Us Satisfaction, and Our further Pleasure be known herein: And for so doing, this shall be your Warrant: And so We bid you heartily farewell.

Given at Our Court at Windsor, the 14th Day of June, 1686, in the second Year of Our Reign.

By his Majesty's Command.

SUNDERLAND.

The Bishop of London's Answer,

Sear by Dr. Sharp to the Earl of Sunderland, then at Hampton-Court, upon Friday, June 18, who could have no Answer.

To the Right Honourable the Earl of Sunderland, Lord President, &c.

MY LORD,

I always have, and shall count it my Duty to obey the King in whatsoever Commands he lays upon me, that I can perform with a safe Confidence: But in this, I humbly conceive, I am obliged to proceed according to Law; and therefore it is impossible for me to comply; because though his Majesty commands me only to execute his Pleasure, yet, in the Capacity I am to do it, I must act as a Judge; and your Lordship knows no Judge condemns any Man before he has Knowledge of the Case, and has cited the Party. However, I sent to Mr. Dean, and acquainted him with his Majesty's Displeasure, which I found so ready to give all reasonable Satisfaction, that I hoped fit to make him the Bearer of this Affair, from him that shall never be as false to the King, nor otherwise than,

My Lord, your Lordship's most humble Servant,

H. LONDON.

On Sunday after, Dr. Sharp carried a Petition to Windsor, which was not admitted to be read:

Which is as follows.

To the King's most Excellent Majesty.

The humble Petition of John Sharp, Clerk, of Sheeweth,

That nothing is so effectual to your Petitioner, as his Unhappiness to have incurred your Majesty's Displeasure; whereof he is so sensible, that ever since your Majesty was pleased to give Notice of it, he hath forbear'd all publick Exercise of his Profission, and still continues so to do.

Your Petitioner can with great Sincerity affirm, that ever since he hath been a Preacher, he hath faithfully endeavoured to do the best Service he could in his Place and Station, as well to the late King, your Royal Brother, as your Majesty, both by preaching and otherwise.

And so far he hath always been from wanting any thing in the Part fit leading to Scholarship or Parochial, or any way to the Disburden of your Majesty's Government, that he hath been upon all Occasions in his Sermons, to the astonishment of his People, set him self against all Sorts of Disobedience and Principles that look so way: And this he is so well offered of, that he cannot but apprehend that his Sermons have been very much misrepresented to your Majesty.

But if in any Sermon of his, any Words or Expressions have unwarily floated from him, that have been capable of such Conclusions, as to give your Majesty Cause of Offence, as he solemnly professes he had no ill Intention in those Words or Expressions, so he is very sorry for them, and rejoices for the future to be so careful in the Discharge of his Duty, that your Majesty shall have Reason to believe him to be your most faithful Subject.

And therefore he earnestly prays, that your Majesty out of Your Royal Grace and Clemency, would be pleased to lay aside the Displeasure You have conceived against your humble Petitioner, and reforse him to that Favour which the Right of the Clergy enjoy under your Majesty's gracious Government.

So shall your Petitioner ever pray, &c.
In the Council-Chamber at White-Hall, &c.

Mercurii 4 die Augusti, 1686.


Upon my Lord Bishop's appearing before them, according to a summons sent unto him, the Lord Chancellor Jefferys began, viz.

Lord Chancellor. My Lord Bishop of London, the Lords here present have received Orders from the King to inspect all Ecclesiastical Affairs and Persons; and He hath commanded us to cite you before us; and I desire you would give a positive and direct Answer to it: What was the Reason you did not submit Dr. Sharp, when the King commanded, and sent you express Orders so to do, and told you what it was for, viz. for preaching seditionally and against the Government?

Lord Bishop. I have received such an Order; and if what was done in that Affair was done amiss, and contrary to my Duty, it was my Ignorance and Inadvertness, and not a wilful Fault: I have been always ready to express my Duty to his Majesty; and if in this Particular I have not complied, it was because, as I was told, I could not. I was not so far as to go on my own Head, but took the best Advice I could get: I consulted those whose Business it is more perfectly to understand these Proceedings; all told me I could not legally do it, but by way of Citation and hearing him.

Lord Chancellor. Ignorant verum excusat; you ought to have known the Law, and it was a wonder you did not: The King is to be obey'd, and if you have any Reason to shew in this Particular, we are ready to hear you.

Lord Bishop. I knew not what would be laid to my Charge, and therefore was not provided to make such a Defence as I might have done; but if your Lordships will give me a Copy of your Commission, and a Copy of my Charge, and allow me some Time, I will endeavour to give your Lordships Satisfaction.

Lord Chancellor. My Lord, I would not misinterpret your Words, but shall desire you to explain their Meaning. If by defining a Copy of our Commission, you design to quarrel with the Jurisdiction and Legality of the Court, I have another Answer for you; but till I know your Meaning here, my Answer is, that no Copy of the Commission can be granted, and it is unreasonable to require it; it is upon Record; all the Coffee-houses have it in a Penny's-piece, and I doubt not but your Lordship has seen it.

Lord Bishop. I have never seen it, nor have I defined it for such Ends, to dispute the Legality of it: But your Lordships knows it is a Thing altogether new to this Generation, and it may be, something may be found in it, whereby I may be accused and directed in my Answer and Behaviour in the Matter. But, my Lord, if I may not have a Copy of it, will your Lordships please I may either read, or hear it read?

Lord Chancellor. That is a Thing I cannot grant of my self, I must ask my Lords Commissioners Judgment; and if you will be pleased to withdraw, you shall hear it.

The Bishop and all the Company withdrew for a Quarter of an Hour; then returning, the Lord Chancellor said,

My Lord, all the Commissioners are of Opinion, that your Request is not to be granted, and that it is unreasonable. Might every one that appears here challenge the sight of our Commission, and the reading of it, all our Time will be spent in the reading, and we have something else to do.

The Proceedings of Courts in this Kind are never by Libel and Articles; Sedes papalis jure antico, by Word of Mouth only; and it is a short Question I ask, Why did you not obey the King?

Lord Bishop. It is a short Question, but requires more Words to answer it. I pray your Lordships to consider I am a Peer, a Bishop, and have a Publick Trust, though unworthy, under a Publick Character; and I would behave my self as becomes one in these Capacities.

Lord Chancellor. We know very well your Lordship's Quality and Character, and are willing to shew all due Respect to your Lordship; but yet we must have a due Regard for the King, and Government too: His Majesty must not be neglected.

Lord Bishop. My Lord, I suppose there is no Appeal from the Court; and when a Man is to be condemned at one Bar, and is in Danger of being knock'd down at one Blow, you would think it unreasonable he should not have some Time to make his Defence.

Lord Chancellor. My Lord, I suppose their Lordships will be willing to grant some Time: I pray what Time does your Lordship desire?

Lord Bishop. My Lord, it is the All兹-time, and most of the Council, upon some Occasion or other (either Business or Diversion) are in the Country: I pray you, my Lord, I may have till the beginning of the Term.

Lord Chancellor. Hal! That's unreasonable: His Majesty's Business cannot admit of such Delays; methinks a Week should be enough: What say your Lordships, Is not a Week enough?

The Commissioners being asked, signified by the Chancellor that a Week was enough.

Lord Bishop. Since your Lordship will grant no more, I will ask no more.

Lord Chancellor. Adjourn until Monday next, the Ninth of August, 1686.

Upon
Upon the Ninth Day his Lordship came, attended with his Nephew, the Earl of Northampton, his Brother in Law, Sir John Nicholas, and his Brother, Sir Francis Compton, Esq.

There being present in Council the same as before in the same Proceedings.

Lord Chancellor. My Lord, we are here to hear your Reasons.

Lord Bishop. My Lord, I have left no Time for preparing my Answer, but am quite ready as I might have been, because I could not light of the Communion your Lordship told me was upon Record, and in every Coffee-house, but employed a whole Week to search for it, and could not have a Sight of it until last Night: If your Lordship doubts the Truth of this, I have the Perfon ready to make Oath here of it.

Lord Chancellor. My Lord, you are a Person of Honour, and we will not question the Truth of what you say, there needs no Oath: But, my Lord, I must tell you, that we will not admit of any quarrelling with our Commission, we are well affoord of the Legality of it, otherwise we would not be such fools as to sit here.

Lord Bishop. My Lord, I have other Reasons why I desire a Sight of your Commission; it may be, it may not reach me, being a Peer and a Bishop; and it may be, it may not reach this particular Cafe; and therefore I desire a Sight of it, in regard I could not see it until the last Night. I have not had time to take Advice what to answer; if your Lordship will not be satisfied, I must give such an Answer as I have prepared; but it is my Desire to have longer Time for it.

Lord Chancellor. Is this all you have to say? Lord Bishop. This is the first Thing: I do not desire to prolong the Time, the Necessity of the Cafe requiring it, the Council being out of Town in whom I think to confide.

Lord Chancellor. If your Lordship will withdraw, we will give you an Answer.

He withdrew for a Quarter of an Hour.

Lord Chancellor. My Lord, as formerly told you, we will not endure any quarrelling at our Commission; it will be an odd Thing in us to give you Time to pick Holes in it; but we are willing to pay all due Respect to your Lordship: What Time do you require?

Lord Bishop. I shall submit to your Lordships; but I hope a Fornight will not be unreasonable.

Lord Chancellor. Agreed: You shall have it until to Morrow Fornight in the Morning.

To which my Lord Chancellor added,

Lord Chancellor. My Lord, when I told you our Commission was to be seen in every Coffee-house, I did not speak with any Design to reflect on your Lordship, as if you were a Haunter of Coffee-houses. I abhorred the Thought of it, and intended no more by it, but that it was common in the Town.

Note. When the Bishop spake concerning the Commission, Sir Thomas Clarges spake with a loud Voice, saying, Well put, well put; my Lord speaks nothing but Truth. There was also another Gentleman, Sir John Lavisher of Lincolnshire, who as he was coming away in the Crowd, said, There are some who have represented me as a Papist, but the contrary shall appear; I will not be afraid, nor answer, to vindicate my Lord Bishop's Cause before the Commissioners thereafter.

TUESDAY, August 23, 1686.

There being present in Council the same as in the former Proceedings: The Lord Bishop attending, the Proceedings were as follow.

Lord Chancellor. My Lord, we are now ready to hear your Lordship's Answer.

Lord Bishop. My Lord, notwithstanding the Time hath been very short, considering the Weightiness of the Matter, and the Abundance of many of the learned Counsel, I have taken what Advice I could, and have-confulted those that are very learned in the Laws. I hope there will be no Misinterpretation of my Words, I do not intend any Thing which is derogatory to the King's Supremacy, that is undervaluable to his Majesty, or disrespectful to your Lordships. My Counsel tells me, that your Proceedings in this Case are directly contrary to the Statute Law, and are here to plead it, if your Lordships will admit them.

Lord Chancellor. We will neither hear your Lordship nor your Counsel in the Matter; we are sufficiently satisfied of the Legality of our Commission, as we often told you.

Lord Bishop. My Lord, I am a Bishop of the Church of England, and by all the Law in the Christian Church in all Ages, and by the particular Law of this Land, I am, in Case of Offence, to be tried by my Metropolis and Suffragans: I hope you Lordship will not deny the Right and Privilege of Christian Bishops.

Lord Chancellor. My Lord, you know our Proceedings are according to what has been done formerly, and that we have an original Jurisdiction: This is still questioning our Court.

Lord Bishop. It is partly.

Lord Chancellor. Nay, it is absolutely so.

Lord Bishop. My Lord, I hope you will interpret every Thing in your Commission in Favour of the Person that is brought before you: I humbly conceive that your Commission doth not extend to the Crimes laid to my Charge for you are to consider Faults which shall be committed: This that I am accused of, was before the Date of your Commission.

Lord Chancellor. I confess there is such a Clause, but there are general Clauses, that take in Things that are past, as well as those that are to come. Hath your Lordship any thing more?

Lord Bishop. My Lords, protecting in my own Right to the Laws of the Realm, as a Subject, and the Rights and Privileges of the Church, as a Bishop, I shall, with your Lordships leave, give you my Answer.

Which was accepted; and the Bishop withdrew, and left Dr. Sharp's Petition, which the King had refused to accept.

Lord Chancellor. My Lord, we have read the Paper.

Lord Bishop. My Lord, it is Dr. Sharp's Petition to the King.

Lord Chancellor. My Lord, be pleased to take it again, we are not concerned in it; will you please that your Lordship's Answer be read?

Lord Bishop. Yes, if your Lordship please. My Lord, I have this to say further, What I did in
in this Matter was jurisperitus Concilia. I con-
fuded my Counsell, who is the Judge of my Courts, as
as well as others; and the Law lays, That what
is done by the Advice of Counsell, shall not be in-
terpreted to be done maliciously, or oblivitively.
The Law, in this Case, requires, that if a Prince
have a Judge to execute an Order, which is not
agreeable to the Law, he shall Refer it to a Regu-
lar more Princely. Now, my Lord, I conceived I ac-
ceded to this according to my Duty, for I wrote back
to my Lord President, in as becoming Words as I
could; and acquainted him, that an Order to suf-
pend before Citation and hearing the Person, is a
against Law, and expected his Majesties further
Pleasure.

In the next Place, my Lords, I did in Effect
what the King commanded to be done, for I ad-
vised Dr. Sharp to forbear Preaching till his Maj-
esty had received Satisfaction concerning him;
and accordingly he hath forborn in my Diocese.

Lord Chief. My Lord, will you have your Pa-
per read?

Lord Bishop. Yes, if your Lordships please.
Which contained the Kings Letter, and the Bishops's
Answer thereto.

Lord Chief. Hath your Lordship any more to
say?

Lord Bishop. My Lord, I desire your Lordship
would hear my Counsell, by whom you may have
more clear and full Satisfaction concerning what
I have said.

Whereupon the Bishop was desired to withdraw,
and after half an Hour, he and his Counsell were
called in, who were Dr. Oldish, Hedges, Price, and Newton. A brief Account of what they pleaded.

Dr. Oldish. My Lord, the Question before your
Lordship is, Whether the Bishop of London hath
been disobedient to the King's Command; concer-
ning which, it must be considered,

First. What was commanded to be done.

Second. What he did in Obedience to it.

Thirdly. What Judgement ought to have been
given by him thereon.

It is apparent by the Letter, that the King did not
take Cognizance of the Case, for the Words are,
Being informed that Dr. Sharp, &c. So that it
could not be an absolute Sufficient, for that sup-
pofeth a Proof of the Crime charged upon him:
Then let us consider the Words themselves:

That you suspend him from Preaching. Now, my
Lords, we have no such Thing in our Laws; so
that the Meaning must be Silencing of him. Where
there is an absolute Suspension, there ought to be
Citation, Form of Proceeding, Judgment and De-
crees; to act only, when is contrary to the Law of
God, of Nature, of all Nations in all Ages, and
was never known in the World.

Lord Chief. I am loth to interrupt you; but I
must tell you, this is an unnecessary Harangue; we
know that it was not an absolute Suspension: But
the Question is, Whether the Bishop could suspend
him from Preaching?

Dr. Oldish. Then, my Lords, I have gained an-
other Point; if it were only Silencing him, the
Question is, Whether the Bishop did not execute
the Kings Commands? I think he did, and in such
a Manner as is observed in our Courts.

When any eminent Perfon is accused, the Judges
fend to him by a Letter; and if he appears and

complies with the Judges Order, the Law is sa-
tisfied.

Judicium realitatur in tuiam in voluntat : The
Bishop did send for Dr. Sharp, shewed him
the King's Letter, advised him not to Preach till
the King had received Satisfaction; in which he
promised to observe his Lordship's Command, and
hath not preached, or so much as intimated that his Ma-
 jesty's Command was, in Effect, fulfilled. My
Lord, there is the like Proceedings in the Com-
mon Law; for if an Attorney takes a Man's Word
for his Appearance, there lies no Action against
the Attorney.

Lord Chief. Conspicuus contraire: There lies an
Action of Eclipse against the Attorney —

Dr. Hedges. My Lords, the Matter of Fact
hath been stated, and the Question is, Whether
the Bishop hath been disobedient to the King's
Command? It appears, that he has not; because
upon the Receipt of his Majesty's Letter, he re-
quired the Doctor not to Preach, and he hath
obeyed him in that way in which the King com-
manded. To suspend him, the Bishop could not do, the
Act of Suspension is a Judicial Act: The King
writes to him as to a Bishop, to suspend as a
Bishop and as a Judge, which could not be done
without the hearing of the Cause. If the Prince
sends to a Person that is not a Judge, that is en-
variably in a ministerial Office, that Officer is to ex-
ecute his Commands; but when the King com-
mands a Judge, he commands him to act as a
Judge. This is no light Matter the Doctor is ac-
cquitted of; it is for preaching Sedition and Re-
bellion, which requires a severe Censure. And if
the Bishop, as a Judge, had suspended him, he
had begun at the wrong End, for this had been
Judgment before Proceeds: In this Cause there
ought to have been a Citation, our Books giving
many Instances, which would be too re-
dious to your Lordships — I will give this
one: The Emperor's Proceedings against the
King of Sicily, upon Information which he had
received; and giving him no Citation, the King
was ordered to Pay 500,000 Dukats, and pro-
cedings to be void; and that it was against the
Law of Nature, which is above all positive
Laws, to put Sentence before Citation. This is
the Method of proceeding before all Courts, and
I humbly conceive it is, and will be, the Me-
thod of this Court; for otherwise, the Bishop
need not have been cited before you. The
Bishop has done what was his Duty, he was
bound to return his Reason to the King, why
he did not do that which he commanded, and to
expect his further Answer; which was done. I
assert, that if a Prince, or a Pope, command a
Thing which is not lawful, it is the Duty of a
Judge Refererere; which is all he can do, quo-
ting his Author.

Dr. Price. The Question is ut iure: A Cita-
tion is 'jure Gentium, and can never be taken
away by any positive Command or Law what-
soever: The Bishop hath obeyed the King so
far as he could, and did refer, expediting his
Majesty's further Pleasure. If the Bishop could
have suspended him, it must have been done in
Adult; but in regard it was only silencing him,
which is all required, might be done in a pri-
vate Room: The Advice of a Bishop is in
some Sense an Admonition, which is a Judicial
Act,
for not suspending Dr. John Sharp.

Lord Chief. My Lord, we have heard you and your Counsel ready.

Then the following Instrument, whereby the Bishop of London was suspended, was, by the Commissioners Order, read by Mr. Bridgman, their Lordships Register.

By his Majesty's Commissioners for Ecclesiastical Affairs.

Whereas Henry, Lord Bishop of London, hath been convened before Us, for his Disobedience, and other his Contempts, mentioned in the Proceedings of this Cause; and the said Bishop being fully heard thereon, We have thought fit, upon mature Consideration of the Matter, to proceed to this Our definitive Sentence, declaring, decreeing, and pronouncing, that the said Henry, Lord Bishop of London, shall for his said Disobedience and Contempt, be suspended during his Majesty's Pleasure; and accordingly, We do, by these Precepts, suspend him the said Lord Bishop of London, perpetually admonishing and requiring him hereby, to abstain from the Function and Execution of his Episcopal Office, and from all Episcopal and other Ecclesiastical Jurisdiction, during the said Suspension, upon Pain of Deprivation and Removal from his Bishopsrick.

Given under our Hand and Seal the 6th Day of September, 1586. Sealed with the Seal of the Court, C. F. R. and Crown with this Inscription round it: viz. Sigillum Commisumariarum Regii Majestatis ed Eadissis et Caufis Ecclesiasticis.

Signed by no body at all.

Some Days since, one of the Mefengers attending the Court, deliver'd to the Dean of St. Paul's a Warrant, the Tenor whereof followeth:

By his Majesty's Commissioners for Ecclesiastical Affairs.

Whereas We have given Sentence of Suspension against Henry Lord Bishop of London, a Copy of which Sentence, under our Seal, is hereunto affixed: We have thought fit, and do hereby enjoin and require you, to cause the said Sentence to be o'ert on the Door of that Chappel-House, and on the Place now called the South Door of the said Church; to the End that Public Notice may be given of the said Suspension. And you are to certify Us, under your Common Seal, of the due Execution of what is hereby required.

At our Council-Chamber at Whitehall, on Tuesday the 28th of this Instant September, at Eleven o'Clock in the Morning. Given under our Seal this Day of September, 1586. Sealed with the same Seal as the Sentence, but no Pertons Names. Subscribed to the Dean and Chapter of London.

Dr. Sharp was also suspended about the same Time, but he was soon after restored to the Exercise of his Function; and when the King received Advice of the Prince of Orange's intended Expedition, the Bishop's Suspension was taken off.
On the ninth Day of February, being Alm. Wedensday, came a Letter under his Majesty’s Signet Manual, dated the seventh of the same Month; the Substance whereof was, That hearing much in Commendation of one Alban Francis, a Benedictine Monk, to the Degree of Master of Arts, in any Oath or Examination of whatsoever, any Law or Statute to the contrary in any wise notwithstanding, with which his Majesty was graciously pleased to dispense in the Behalf of the said Alban Francis. On Monday the 28th, the Vice-Chancellor having summons’d a Congregation, read his Majesty’s Letter, purporting as before, and superfluous to Our truthly and well-beloved Vice-Chancellor of Our University of Cambridge, to be communicated to the Senate there; on the reading whereof, the Senate, who made the best Advantage they could of the Vice-Chancellor’s Delay, in order to get Advice, resolved to testify their common and almost unanimous Sense of the Thing, and in a Matter of such Consequence and novel Matter to interpose; accordingly there was a Paper, it is commonly called a Grace, the original Paper whereof I have been drawn up in order to be put to the Vote of the House, after the ordinary and usual Way; but the Constitution of that Body being such, that this must then of Necessity have been first propofed to what we call the Parliaments, which consists of the Persons of each of which has an arbitrary Voice and Power, upon dislike to flie any Proceedings finally, and hinder it being put to the House at all; This Method was laid aside as impracticable upon that Occasion; because Mr. Boffa, a declar’d Roman Catholic, and one that had openly affirmed Mr. Francis’s Cause, happen’d to be one of the fix who compose the House for this Year; it was therefore precluded, with great Appearance of Reason, that he would put a Bar to the Proceedings, so the Grace not being furnished to be offered, the House and the Senate’s Sense could never have been fully and particularly known thereupon.

This Consideration constrain’d them to the Use of another Course, which was, without the Formality of a Suffrage, voluntarily to testify their Concurrence with the Vice-Chancellor, and advise him to forbear the admitting Mr. Francis, till the King had been petitioned to revoke his Mandate. As soon as the Letter came to Town, the Vice-Chancellor wrote a Letter to the Duke of Albermarle, our Chancellor, to beg his Intercession with the King, which he returned Wood was tried with none Effect, but possibly such a Body as the University concurring and signing a Petition, if that could be admitted, might prove better and more successful. Now perhaps if every Fingle Man present, to the Number perhaps of one hundred and fifty or two hundred, should address in Person to the Vice-Chancellor, this might look tumultuous, and it was thought the more quiet, decent, and respectable Way to fend up their Sense by Messengers from each House: To this Purpose, Dr. Simonds, Preceptor of Cathedal Divinity, was made Choice of by the Non Regens, and Mr. Norris, Fellow of Trinity-College, by the Regents. The Substance of what they delivered, was, That the House thought the Admission of Mr. Francis without the usual Oaths, illegal and unsafe, and for that Reason advis’d the King might be petition’d, in the doing which they were ready to join and make it their Act. The Opinions were given freely to the two Messengers of each House, and the thing was so unanimously approved of, that the only Persons taking notice of it, were three Papists, and one or two bedlams; afterwards there was a Gentleman admitted Doctor of Physick, having first taken the Oaths; and the Esquire Butlers and Registrars were sent to let Mr. Francis know, that the Senate were ready to admit him also, provided that he would swear as the Law appointed; but he refused, infilling on the King’s Dictation: and this was the Business of the first Meeting about this Matter. Immediately upon the Congregation’s breaking up, Mr. Francis took Horse for London, to repel a Message which had been done, and the same afternoon the House met in the Conclave, to confult what Letters should be sent and to whom: They agreed upon one to the Duke of Albermarle, and another to the Earl of Sunderland, being the Secretary of State, through whose Hands the Mandate passed: An Esquire Butler was despatch’d prefently to London, who after having waited on the Duke of Albermarle, endeavoured several times to get Access to the Lord Sunderland, but could not; at last having sent in his Letter, the Main Whereof was a most humble Submission to his Majesty, with very solemn and unfeigned Prorepiation, that what was now proceeded from no Principle of Disobedience and Subversion, but a conscientious Sense of our Obligation to Laws and Oaths, and a respectful Intimation that we were ready to petition the King that it might be admitted; but not daring to approach Him without some Significations, that it would be acceptable, we applied ourselves to his Lordship, defining him to do the University the Favour to mediate for them, &c. He was discomposed without any particular Answer: Within a few Days came a second Letter, dated February 24th, in which the Duke of Albermarle and some other publick Business intervening, was not read in the Senate till Thursday, March the 11th: The University and the Vice-Chancellor in the mean Time received a Letter, wherein
wherein they found great Satisfaction by the Opinions of some eminent Lawyers, who concurred in the Approbation of what was already done, and for the future, could advise no better Course than humbly to reprieve the Cause to his Majesty, and cancel him not in any of the Unions of so Loyal a Body, as always the University has flourished heretofore to be. The second Letter being read the Day aforesaid, which was exactly the same as the former, excepting only the Addition of a Clause, to do it at our own Peril; the Senate proceeded as before, to advise the Vice-Chancellor to some expedient Form, representing the Cause fully and clearly to the King, as well with respect to the Illegality of such Ad- missjon, as the many ill Consequences that were likely to ensue from it, the Non-Regent Hands did by Mr. Billers, Fellow of St. John's College (the publick Orator) and Mr. Newton, Fellow of Trinity-Collage (the Mathematical Prof- essor) the Regent House by Mr. Henry Finch, Son to the late Lord Chancellor, Mr. Burrel of St. John's College, and Mr. William Boyle of King's Collage: All which was done without the least Hurry of Irregularity, without so much as asking an Opin- ion; but every Man went and gave it quietly and of his own Accord, so that no manner of Induced movent was put upon any one to declare himself in the Business, but what proceeded merely from his own Conscience, and a due Sense of Things. An- other large Letter being prepared for the Duke of Albemarle, wherein was every thing that could be thought of to prevail with his Majesty, and one likewise shorter and less particular to the Earl of Sunderland; that very Afternoon Mr. Bradock, Fel- low of Katharine-Hall, and Mr. Steadham of King's College, were deferr'd by the Vice-Chancellor to go to London with these Letters, and other In- structions, as well to declare to several Persons of Quality and Character, that they would join Forces, and think it a common Cause; for so ad- dressing to the King, the Success would be much more probable, and the Honour done to the University the greater. Sunday, March the 13th, the two Gentlemen waited on the Duke of Albemarle their Chancellor, who received them with all the Good- ned in the World, with Affirmation, that notwithstanding he had waited on the King before, and knew the Matter of Feeling, he would do it to the nearest, and make another Attempt, and thought himself obliged to omit no Endeavours for the University's Safety and Advantage. Monday the 14th in the Evening, the Duke of Albemarle waited on the King, and in the Pallace towards the Bed-chamber, took the two Cambridge Gentlemen into the Anti-chamber, that they might be introduc'd if Occasion were: The King, on the Duke of Albemarle's acquainting him with the Affair, told him he had not then Leasure to talk, but he commanded that Letter which the Vice-Chancellor sent to the Duke of Albemarle, with which in his Hands he palled through the Rooms; and making that Evening a Visit to the Queen Dowager, gave the Duke no farther Opportunity of knowing his Pleasure at that Time. At the Duke's return from the Inner-Room, the Gentlemen desired him to give leave that they might use his Name to procure the only Admittance to the Earl of Sunderland; for they resolved to deliver their Letter to no Hands but his own, if that might be: The Duke immediate ly sent his Gentlemen of the Horde to one of the Lord Sunderland's Secretaries, making it his Defire that Mr. Bradock and his Companion might see the Earl, who accordingly appointed them to attend next Morning, and then conducted them to the Earl of Sunderland's Bed-side, who took the Letter, and after some further Applica- tion to him by Word of Mouth, he promised to acquaint his Majesty, and tell them his Pleasure. On Thursday, at that Time when Mr. Bradock and Mr. Steadham came, the Account they received was only this, That the King had seen the Vice-Chancellor's Letter, and was offended at the Pro- ceedings of the University, and would take Care very shortly to give a further Answer. Saturday the ninth of April, Mr. Atterbury came down with a Summons from the Ecclesiastical Commission, to this Effect, That the Universities' Com- plaint to them was made against the Vice-Chancel- lor and Senat of Cambridge, for having refused to comply with his Majesty's Royal Letters in Behalf of Mr. Francis; they were therefore com- manded to appear, the Vice-Chancellor in Perdon, the Senate by themselves, and the Deputies before the Lords Commissioners, in the Council-Chamber, the 25th of April, to answer to such things as shall be objected against them in his Majesty's Behalf upon the Premises: etc. Monday April the 24th, a Senate was called, and Perdon nominated to repres- ent the University, together with the Vice-Chan- cellor; all which being unanimously approved by the Senate, they empowered them, by an Instru- ment under the common-Sal, to answer in their Behalf, and be their full Atters, Attorneys and Presters, as to what should arise from the Com- mission upon the late Summons. And Mr. Atter- bury having received private Instructions to stay, and cite every Man that was chosen personally, he came accordingly into the Regent House, and summoned as many as were present, waiting on the nft on a convenient Time. The Perdon deputed by the Senate to represent and act were three.

Dr. John Patchell Vice-Chancellor, Master of Magdalene-Collage.
Dr. John Echard, Master of Katharine-hall.
Dr. Hanrey Baxton, Fellow of Trinity-Collage.
Dr. Thomas Smollett, Fellow of St. John's-Collage, and Professor of Caisfical Divinity.
Dr. Willts Cook, Doctor of Civil Law, and Fellow of Jesus-Collage.
Mr. John Billers, Fellow of St. John's-Collage, and the Publick Orator.
Mr. Isaac Newton, Fellow of Trinity-Collage, and Mathematical Professor.
Mr. James Smith, Fellow of Queen's-Collage.
Mr. George Stanhope, Fellow of King's-Collage.

Thursday, April the 24th, 1687.
Council-Chamber. Commissioners prefixed.

L. Chancellor Jefferys, L. Bishop of Durham.
L. President Sunderland, L. Bishop of Rochester.
L. Mulgrave.
L. Ch. Justice Herbert.
Earl of Huntingon.

L. Chown. Is Mr. Vice-Chancellor here?

L. Which is he?

L. He stands over against the Lord Chancellor, bow'd and swear'd himself.

L. Chown. Is there any one come from the Se- nate to attend him?

K x 2
Mr. Stan-
Mr. Stanhope. Yes, my Lord, we are eight of us here deputed by the Senate to answer what shall be objected against them, according to your Lordships Summons.

The Neas and Crowd being great, Mr. Bridgman the Registrar was forced to repeat that again to the Lord Chancellor.

L. Chanc. Read the Summons.

Which was done.

L. Chanc. Now, Mr. Vice-Chancellor, what have you to say why you did not obey his Majesty's Command, in Behalf of the Gentlemen mentioned there?

Vice-Chanc. My Lord, you enquire of me why I did not admit Mr. Francis, according to the King's Letters.

L. Chanc. Yes, that's the Question I ask you.

Vice-Chanc. Is this the only Question your Lordship is pleased to ask me?

L. Chanc. Nay, Mr. Vice-Chancellor, we will not capriciate in the very Beginning: Pray answer the first, and then you shall know what we have to say more.

Vice-Chanc. It is but a little while since we met in Town, and this is a Question of great Concern; I am not prepared to answer it on a sudden.

L. Chanc. Why, Mr. Vice-Chancellor, my Lords specified it in their Summons what would be questioned; on Purpose you should not come unprepared; but it may be, Mr. Vice-Chancellor did not attend sufficiently to that Part of the Summons, therefore let it be read to him once more.

Which was done.

L. Chanc. Now, Sir, you hear it is for refusing to comply with the King's Commands.

Vice-Chanc. My Lords, I beg Time to answer you. My Lords, I am a plain Man, not used to appear before such an honourable Assembly, and if I should answer hastily, it may be I might speak something indecent or unsafe, which I should be afterwards sorry for; therefore I beg Leave, my Lords, to have Time allowed us for giving in such Answer, as may be both for our Safety, and your Lordships Honour.

Lord Chanc. [Smiling.] Why, Mr. Vice-Chancellor, as for your own Safety, my Lords are willing you should take all the Care you can; but for what concerns our Honour, do you not trouble your self; we are able to contest that, without any Interposition of your's.

Vice-Chanc. My Lords, I beg your Pardon if I have said any thing unbecoming; I mean only the Honour that is due to your Lordship's Quality, my Lords, and therefore being to answer before Persons of Quality, I beg leave to do it with Counsel, and in Writing.

Lord Chanc. Well, withdraw a little, and my Lords will consider of your Request.

Then all the Company withdrew, and about three Quarters of an Hour after the Vice-Chancellor was sent for into the Anti-Chamber, where Mr. Bridgman told him, the Lords Commissioners had given him Time till Wednesdays next, till Four in the Afternoon, and Leave to put his Answer in Writing, and with Counsel, and by what Counsel he would.

When the Counsel had heard the Commissioners had granted it, they were something surprized, and both to move in the Thing without a Rule of Court; therefore on Friday Morning Dr. Eastwood and Mr. Stanhope went to Mr. Bridgman's Office, to define such an Order, or at least a Copy of what had been said to the Vice-Chancellor; but he told them he had no Power to give either, only he repeated the Words over again for the Satisfaction of them and the Counsel, which was the fame the Vice-Chancellor had related from his Mouth before.

WEDNESDAY, April 27, 1687.

In the Council-Chamber. Commissioners present as before.

ABOUT a Quarter of an Hour before the Lords met, Mr. Bridgman came to the Vice-Chancellor, and defied to know of him, whether he gave his Answer in Writing only, or whether any Counsel would appear to argue it, to which the Vice-Chancellor answered, That his Answer was drawing out in Writing, and that he did not expect any Counsel there that Day. Mr. Bridgman replied, The Lords had commanded him to ask these Questions, and would expect to know so much before they began to proceed. When the Delegates were called in, the Lord Chancellor said, L. Chanc. Mr. Vice-Chancellor, the last Time you were here you defined Time to put in your Answer in Writing: My Lords have indulged you so far, now where is your Answer?

Vice-Chanc. My Lord, here it is—

And gave it to Mr. Bridgman, who, after a Whispers, put it round the Table.

L. Chanc. Read it.—

[T. Mr. Bridgman.]

The Answer of the University and Senate of Cambridge, to the Question, Why they did not admit Alan Francis to the Degree of Master of Arts in the same University, according to his Majesty's Mandatorj Letters under his Signet Manual? The Vice-Chancellor and Senate of Cambridge, for, and in Behalf of the said University, say,

THAT by the Statute made primo Eliz. and entitled, An Act to refer to the Crown the present Jurisdiction over the State Ecclesiastical and Spiritual, and abolishing Foreign Power in regard to the same; it is enacted, amongst other Things, That every Person that shall be promo
ted to any Degree of Learning in any University within this Kingdom, before he shall receive or take any such Degree, shall, before the Chancellor or Vice-Chancellor of the University, take the Oath in the Statute mentioned and appointed; purporting, that he doth thereby submit and declare in his Confidence, that his Jurisdiction is the only supreme Governor of this Realm, as well in all Spiritual and Ecclesiastical Things and Causes, as Temporal; that no Foreign State or Potestate hath, or ought to have, any Jurisdiction, Superiority, or Authority, Ecclesiastical or Spiritual, within this Realm; and that therefore he doth renounce and forsake all Foreign Jurisdiction and Authority, and promise to bear Faith and true Allegiance to the King, his Heirs and Successors, and to his Power still and defend all Jurisdictions and Authorities granted, united or annexed to his Majesty's Imperial Crown of England, That by the Statute made quinto Eliz. entitled, An All for the Aherence of the Queen's Right Prerogative over all Estates and Subjects within her Dominions, it is likewise enacted, That every Person
for not admitting Alban Francis to a Degree.

Per son that shall be admitted to any Degree of
Learning in any of the Universities, before he
shall be allowed or suffered to take upon him
such Degree, shall take the aforementioned Oath
before such Person or Persons as shall have Au-
thority, by common Use, to admit him to such
Degrees.

That by the Statute made by his Majesty's
Royal Grandfather, King James the First, in the
third Year of his Reign, entitled, An Act for
the better Difusing and Reforming of Popish
Benefts, another Oath is commonly prefcrib'd,
the Oath of Obedience; by which Oath, is the
Per son that takes it, among other things, en-
joined to swear, that his Majesty is lawful and
rightful King of this Realm, and all other his
Dominions and Countries; and that the Pope
himself of either of them, or by any other Means, hath
Power or Authority to depose his Majesty, or
depose of him, his Kingdoms or Dominions; or to
authorize any Foreign Prince to invade them
or them, or to discharge their Subjects from their
Obedience or Allegiance to his Majesty, or to
give Leave to bear Arms against him; and that he,
with true Faith and Allegiance to his Majesty,
will defend him to the utmost of his Power.

And afterwards, in the Statute made in the
ninth Year of his Majesty's said Royal Grand-
father, entitled, An Act for establishing the
Oath of Allegiance, in it is enacted, That the
said Lift mentioned Oath shall be taken by the
Vice-Chancellor and Principals of Hones in
the University, in the Convocation before the
Senior Mufers, and by every other Person that
shall be permitted or appointed to any Degree in
Schools, before the Vice-Chancellor for the Time
being, in the Congregation-Houfe.

That the Vice-Chancellor, and every Mem-
ber of the Senate, have taken the said Oath, and
the Vice-Chancellor and Senate are entrusted to
put them in Execution in the said University,

That the Vice-Chancellor, by his Oath of
Office, has also sworn truly to execute his Office,
according to the Laws, and cannot admit to any
Degree without the Senate.

That the said Statutes were made for the Pre-
servation of Doctrine and Religion, professed by
the Church of England, and established by the
Laws of this Realm, and of the Prorogative and
rightful Power of his Majesty; that upon the
Receipt of his Majesty's Royal Letters Manda-
tory, the same were by the Vice-Chancellor
communicated to the Senate; and in order to the
admitting the said Alban Francis to the Degree
of Master of Arts, the said Oaths were offered
to be administered to the said Alban Francis, if he
would take the same, but he refused.

That the admitting him without the said Oaths
had been contrary to the said Statutes, and a
Breach of the Truth in the Vice-Chancellor and
Senate repofed, and a Violation of their Oaths;
and therefore they could not admit him to the
said Degree of Master of Arts: And by humble
Application to his sacred Majesty, did, and now
again do, humbly defire your Lordships to re-
pel this their Cafe to his Majesty, that they
may not be under his Majesty's Displeasure upon
any Millennium thenfion. But whether your
Lordships will, as a Court, take Cognizance of this
Matter, they humbly pray your Lordship's
Consideration, since that the taking a Degree of
Master of Arts in the University, or the ad-
mitting and refuing to such a Degree, is not
any Caufe or Matter Ecclefaical or Spiritual,
but of Lay and Temporal Cognition.

And they further offer to your Lordships, that
in the Statute made in the eleventh of the Reign
of his Majesty's most Royal Father King Charles
the First, entitled, An Act for repealing of
the Branch of a Statute, Primo Eliz. concern-
ing Commiffioners for Caesar Elective; and
whereby the said Branch is repealed, it is enact-
ed, "That no new Court shall be erected, or
ded, or appointed within this Realm, which
shall or may have like Power, Jurisdiction, or
Authority, as the High Commiffion Court then
had, or pretended to have; but that all and ever-
y such Commiffions and Grants, and all Powers
and Authority granted, or pretended to be
granted thereby, shall be void and of none Effect,
as in and by the said Statutes more fully appears."

Which being read, my Lord Chancellor said,
Is it liglit? Mr. Bridgman. Yes, my Lord.
Lord Chanc. Read their Names. —
Which was done.

L. Chanc. Well, have you any more to say? Mr. Vice-Chanc. No, my Lord, not at this Time.

L. Chanc. Then withdraw.

All the Company withdrew, and about an Hour
and a half after the Court broke; and afterwards
Mr. Bridgman desired to speak with the Vice-Chan-
celler and Delegates in the Council-Chamber, to
whom he said, That their Lordships had com-
municated him to talk to them, they put off all further
Consideration of this Matter till Saturday come
Seventnight, and then they expected their Ara-
dance again. Mr. Vice-Chancellor asked him,
If Council would be expected to plead on their
Answer? He replied, Their Lordships had given
him no Commiffion to say any thing to that. So
they all withdrew.

Saturdav, May 27, 1687.

This Day it was publicly discoursed thro' the
Town, that the Lords had received a new Commiffion, and immediately Lawyers were
confulted, whether it was proper to urge that
at this Appearance. What could be gathered thereupon to this Effect? That it were a
good Plea, if it could be proved, for in
receiving a new Commiffion in the Mift of the
Process, especially if there be any Alteration in
it as to the Extent of their Power, would at
least be a good Pretence to begin the whole
Caufe again, and gain Time; but that it was by
no Means safe to allege the Thing, for a flying
Report is no Evidence; and if that Report were
false, it might be a great Prejudice to them and
their Caufe.

Council-Chamber. Commissioners present as
before.

Lord Chanc. Mr. Vice-Chancellor, the last Time
you were here, you gave in a Paper to my Lords,
signed by yourself, and several others coming from
the University, which confldts of several Parts;
but there is one thing I must crave Leave of my
Lords to discourse you on, which concerns your
self. The Lords took Notice, that you allude to
an Oath: That Oath it seems hindred you from
obeying the King's Mandate.———Pray what
was the Oath?
Vice-Chancellor. My Lord, this is a new Question which you were pleased not to put before, and I beg Leave and Time to answer it.

L. Chan. Why, Mr. Vice-Chancellor, this requires no Time. My Lords, I tell you, took Notice of an Oath you pledged for your self, and now they desire to know what the Oath is.

Vice-Chancellor. I beg I may not answer hastily, but that your Lordships would let me know what Questions you would ask me, and let me answer them in Writing, and by Counsel.

L. Chan. Why did you not consult Counsel when you took your Oath? I am really concerned for the University of Cambridge, whereof I myself was once a Member, that the Vice-Chancellor, who is the Head, and the Representative of so learned a Body, should come here before the King's Commissioners, and not be able to give an Account of the Oath by which he acted all this time, but defines Counsel and Time to tell what the Oath is.

Dr. Coke. My Lord, if your Lordship pleases, I think I remember the Words of the Oath.

L. Chan. Nay, good Doctor, how came you, who never were Vice-Chancellor, and so never took this Oath, to know it better than one that is Vice-Chancellor, and hath taken it?

Vice-Chancellor. I cannot call to Mind the very Words of the Oath, but the Substance of it is this; "that I would well and faithfully, prefere, and administrare munus, or Officium Princendorum."

L. Chan. Ay, Munus, or Officium: Well, what then?

Vice-Chancellor. And, my Lord, this Office I take to be that by the Statutes of the University, and the Laws of the Land.

L. Chan. Well, and how long has this been the Vice-Chancellor's Oath?

Vice-Chancellor. Indeed, my Lord, I am not able to tell you exactly.

L. Chan. How long do you think? I will not tie you to any Time.

Vice-Chancellor. Ever since I knew what belonged to it; ever since I was Head of a College.

L. Chan. How long have you been Head of a College?

Vice-Chancellor. Six or seven Years, my Lord.

L. Chan. Have not other Vice-Chancellors admitted to Degrees without Oaths, who have taken the Obligatory Oath as you have done?

Vice-Chancellor. Indeed, my Lord, I cannot tell; I cannot remember every particular Thing that has been done.

L. Chan. Well, because we will keep close to the Question, don't you remember any Master of Arts made without Oaths?

Dr. Coke. Not under the Quality of an University Nobleman, my Lord.

L. Chan. Nay, good Doctor, you never were a Vice-Chancellor yet: When you are, we may consider you.

Vice-Chancellor. The Answer to your Question will depend upon our University Book and Records; and if you will allow us Time to consult them, we can give your Lordship an Account.

L. Chan. Nay, look you, Mr. Vice-Chancellor, you have given in an Answer in Writing already, and because there is something in that my Lords would be further satisfied in, they have left it to me to ask you some Questions. I ask you, therefore, if you remember any Master of Arts who hath been admitted heretofore without their Oaths?

Vice-Chancellor. I cannot say, I remember any, my Lord.

L. Chan. Did you never hear of one Dr. Lightfoot?

Vice-Chancellor. I think, my Lord, I have heard of such a one.

Dr. Coke. My Lord, I beg leave to speak a few Words.

L. Chan. Well, Doctor, what is it you have to say?

Dr. Coke. My Lord, Dr. Lightfoot did subscribe. L. Chan. What Subscription do you mean? Dr. Coke. To the XXXIX Articles; and the Fifth of them is the King's Supremacy.

Vice-Chancellor. Is Subscribing Swearing, Doctor? But Mr. Vice-Chancellor, how many have you admitted by Mandate?

Vice-Chancellor. Never but one, my Lord, and he took the Oaths.

L. Chan. Do you never admit without Oaths them who have such particular Letters Patent from the King?

Mr. Stults. Never, my Lord.

And as for Dr. Lightfoot, they were aware before of this particular Serjeant's being objected, and therefore had provided an Answer to it.

Mr. Stults. undertook it, because the Books and University Papers had been committed to his Inspection and Care. In answer, he had been permitted to speak: he had this to offer, that the Repeal of the Articles was then in Court, and had a Paper ready in his Hands to be produced, where Dr. Lightfoot subscribed with his own Hands to the XXXIX Articles, the first whereof is the King's Supremacy, and that he could not refuse the Oath upon a Principle, because the same may have bound his Subscription. And as a farther Proof, he did offer, they were ready to swear this, that two Gentlemen, Roman Catholicks, Servants to the Queen Dowager, did by Virtue of the same Letters from the King, at the Time of his coming to Cambridge, declare their Admitt of Arts Dignates. Their Names were Pere and Stephen. These Gentlemen were propos'd and granted, but upon Refusal to swear, were not admitted. Of this they could have produced, from a Testimony upon Oath of a Gentleman then in Court; and besides that, the University Papers and Grace, which shew these Gentlemen Names, among the Persons paff'd in the House, but wanting in the List of Subscribers and Commissaries. After which they would have referred it to the Court, whether it was probable that the University should admit one of the Queen's Servants without Oaths, and yet refuse two more who had the same Title every way, because they would not take the Oaths; but the Lord Chancellor would not hear him.

L. Chan. Nay, look you now, that young Gentleman expects to be Vice-Chancellor too; when you are, Sir, you may speak, but till then it will become you to forbear. Mr. Vice-Chancellor, When was it pray, that you received the King's Letters? the fifh I mean.

Vice-Chancellor. I do not perfectly remember, my Lord; I can't call to Mind the Day of the Month.

L. Chan. When were they dated, do you know?

To Mr. Bridgman, my Lord paying.

Vic-
Vice-Chanc. My Lord, I remember it was Aulp-Wildsifer.

Lord Chanc. And when was it these Letters were published in the Senate?

Vice-Chanc. It was the Seven-night after, my Lord.

Lord Chanc. What's the Meaning of the Delay, Mr. Vice-Chancellor? The King's Buitnifs used to have a quicker Dispatch.

Vice-Chanc. It was a novel thing, and I was willing to give myself and others Time to consider on it.

Lord Chanc. But when you had read the Letters, why was not the Gentleman admitted?

Vice-Chanc. My Lord, the Senate sent to me, to declare me, that I would forbear admitting Mr. Francis, till I had petitioned the King to revoke the Mandate.

Lord Chanc. Why, does the King's Mandate use to be disputed? Did you ever see a Mandate voted in the House, whether it should be obeyed or not?

Vice-Chanc. No, my Lord, usually they are not; but the House sent to me to forbear, for they have not had any of this Nature before.

Lord Chanc. Did you ever know any Mandates of the King's refused by the University before?

Vice-Chanc. After some Peace — Yes, my Lord, several.

Lord Chanc. Pray give us some Inistance.

Vice-Chanc. My Lord, one Tatnell.

Lord Chanc. When, pray? How long was that ago?

Vice-Chanc. I cannot recollect just the Time, but it was in his late Majesty's Reign; I believe, about fourteen or fifteen Years ago.

Lord Chanc. How was that?

Vice-Chanc. My Lord, the Mandate was given to one Tatnell, a Non-conformist Minister, and he refused to subscribe and take the Oaths; whereupon, my Lord, the University petitioned the King, and represented the Matter to him, and the King was pleased to recall his Mandate.

Lord Chanc. Mr. Vice-Chancellor, had not you a Mandate for another Gentleman at the same Time with this, which you refused?

Vice-Chanc. Yes, my Lord, it was to make a Gentleman Doctor of Physick.

Lord Chanc. And he was admitted upon it, was he not?

Vice-Chanc. Yes, my Lord.

Lord Chanc. Did the Senate vote his Mandate?

Vice-Chanc. No, my Lord, they did not.

Lord Chanc. Why should they interpose in the one, and not in the other?

Vice-Chanc. That had no Dispensation, my Lord, for the Oath in it.

Lord Chanc. But however, if they did not vote it, nor do any others of the King's Letters, how do you know their Content?

Vice-Chanc. My Lord, it is prefixed upon their being silent, and offering nothing to the contrary.

Lord Chanc. Ay, we have a Proverb, Mr. Vice-Chancellor, Silence gives Consent, but it seems he was admitted immediately, was he not, before you could know whether they contended to it or no?

Vice-Chanc. No, my Lord, he was not admitted till the House defined me to forbear in Mr. Francis's Case.

Lord Chanc. But, as to this Buitnifs of the Senate directing you (my Lords) I hope you will indulge me to speak a little of that; for having been formerly a Member of that University my self, I think I have some small Remembrance of the Manner of the Proceedings there; Pray, Mr. Vice-Chancellor, how was it that you knew their Minds in this Buitnifs?

Vice-Chanc. My Lord, the House sent up their Opinions.

Lord Chanc. How, pray? by whom?

Vice-Chanc. The Non-Regents by Dr. Smult the first Day; and Mr. Billers the Orator, and Mr. Newton the Mathematical Professor, my Lord, the second Day.

Lord Chanc. By whom do you say the first Day?

Vice-Chanc. By Dr. Smult, my Lord, from the Non-Regent House, and Mr. Norris from the Regent House.

Lord Chanc. Well: What said these two to you?

Vice-Chanc. My Lord, I don't know the very Words, but it was to this Effect, That I should forbear admitting Mr. Francis till the King was petitioned.

Lord Chanc. Is that Dr. Smult in Court?

Vice-Chanc. Yes, my Lord, he is here — Thou be formed thine self.

Lord Chanc. Come, Sir, What was it, I pray you, that you told the Vice-Chancellor?

Dr. Smult. I have forgot, my Lord, the Words, but it was to the same Purpuse the Vice-Chancellor told you just now, that the House defined me to acquaint them they were petitioning, that the Mandate might be recalled.

Lord Chanc. And pray, Sir, who are you, that you should be thought fit to represent a whole House? Why should they choose you rather than any Body else?

Dr. Smult. My Lord, I suppose because I was one of the Seniors.

Lord Chanc. One of the Seniors! If you come to that, why was not the very Senior chosen?

Dr. Smult. I cannot tell, my Lord, they came to me.

Vice-Chanc. My Lord, he is one of our Professors.

Lord Chanc. Nay, when I ask you Questions, they prompt you, and now you prompt them; but I must tell you, Mr. Vice-Chancellor, you ought to take an Account of what is done in the House your self, and not from others.

Vice-Chanc. My Place is at a great Distance from the Non-Regent House, and I could not see what was done there.

Lord Chanc. But should you take the Sense of a whole House from one Man?

Vice-Chanc. He came and told me, my Lord, the House was of that Opinion, and I thought I had no reason to question what he said.

Lord Chanc. How loud did he speak when he told you this?

Vice-Chanc. Pretty loud, my Lord.

Lord Chanc. Was it so loud, that all the House might hear it?

Vice-Chanc. No, my Lord.

Lord Chanc. Did you fend afterwards to enquire whether he had told you their Opinions true or not?

Vice-Chanc. No, my Lord, I confess I did not.

Lord Chanc. But how came this New Way of giving Opinions; are not the Professors usually the
the Man that bring the Senec of the House to the Vice-Chancellor?

Vice-Chancellor. Not the Non-Regent, my Lord, they are not admitted into that House, nor have at all to do there.

Lord Chancellor. Have you any thing else to offer to my Lords?

Dr. Coke. My Lord, if the Anwer that we gave in the last Day be not satisfactory, we desire to have Time allowed us to make a further Delinence, and to do it with Countef

Lord Chancellor. Have you nothing to say besides?

Dr. Coke. No, my Lord.

Lord Chancellor. Nor you Gentlemen? — then withdraw.

After the Vice-Chancellor, and three or four of the Delegates were gone off, and the Crowed was retiring, Mr. Billers, being a Perkin engaged in carrying up the Screen of the House, would have informed the Court (who feared under a Militia) were particularly of the Senate's Proceedings; and love it came to pass that the said Way of Sufferage was impracticable at that Time.

Mr. Billers. My Lords, I beg Leave to speak one Word.

Lord Chancellor. Who are you?

Mr. Billers. My Name is Billers, my Lord.

Mr. Bridgman. My Lord, he is one of the Gentlemen that signd the Paper in which was the Anwer.

Mr. Billers. I am one of the Perions, my Lord, that signd the Paper in which was the Anwer.

Lord Chancellor. Nay, hold Mr. Billers, give me leave to compare your Memory with Mr. Vice-Chancellor's a little; Mr. Vice-Chancellor tells me, Mr. Billers and Dr. Sprawle went up both of a Day; then comes Mr. Billers, and says, that Dr. Sprawle and he went up two several Days.

Mr. Billers. My Lord, I could not possibly go up from the House; I do not belong to the Regent-House.

Lord Chancellor. Indeed he said so, Sir; indeed he did, my Lords — Did he not? [To Mr. Bridgman.

Mr. Bridgman. Yes, my Lord.

Mr. Stenthope, behind the Biflop of Rochester.

My Lord, under Favour, my Lord Chancellor is mistaken; the Perion Mr. Vice-Chancellor told your Lordship went up from the Regent-House the same Day with Dr. Sprawle, was Mr. Norris.

Biflop of Rochester. My Lord, I think your Lordship forgets; it was Mr. Norris that went up from the House the same Day with Dr. Sprawle.

Lord Chancellor. Well, Sir, was this that you would say?

Mr. Billers. I was only just acquainting your Lordship what was done, and that there was no other Way — The Thing Mr. Billers intended to urge, was, That the usual Way of Sufferage could not be practised at that Time; so the other was taken.

Earl of Sunderland. We heard that before, Lord Chancellor. Ay, Sir, we took both what was done, and what was not done; therefore withdraw.

Then all the Company retired, and after an Hour and a Half's Attendance, they were called in again, and the Lord Chancellor pronounced the Sentence upon Mr. Vice-Chancellor in the following Manner.

Lord Chancellor. Mr. Vice-Chancellor, the Lords have commanded me to tell you, that they have taken some Time to consider your Answer, and are at last come to a Resolution upon it: My Business is to tell you what the Resolution is, Mr. Vice-Chancellor. My Lords consider you have been guilty of an Act of great Disobedience to the King's Commandments, and other Crimes and Concerns, and that now you appear before us, you have little to say in Excuse of it; therefore as a Mark of his Majesty's and their Lordships Displeasure, they have thought fit to appoint, that you be henceforth deprived of the Office of Vice-Chancellor of Cambridge. They likewise order, that you don't premise, at any Time hereafter, to meddle with any of the publick Business of the University. Likewise, Mr. Vice-Chancellor, their Lordships consider you have a Headship of a College; and because the Example of so ill a Man may be a pernicious Confusion to all under your Government, they have likewise thought fit that you be deprived of it, during his Majesty's Pleasure: But that, when they have a Tenderness for the College, for which I have always you have hitherto showed a Little Regard, my Lords are pleased to appoint, that the Revenues of your Headship shall go to the Benefit of the Society. This is their Lordships Pleasure, and to this they require your Obedience. There are likewise some other Gentlemen that have signed a Paper here, but my Lords expect their Attendance when they fit next, which will be on Thursday next; then we shall take them into Consideration.

On Monday, Dr. Peckwell wrote by an Esquire-Beadle, who attended him, to deliver a Copy of the Sentence; but Answer was returned, The Sentence as yet was not committed to Writings, but verbal only, and so he could not nor have a Copy; but he repeated the Heads only with this Alteration, That he was signified his Malignity, and not deprived; which was an Error in the Lord Chancellor's delivering it.

The Beginning of the next Week was employed in making Enquiries after the new Commission; the Hannapeter Six Clerks, and the riding Six Clerks Office knew nothing of it, nor any Court of Record could be directed to. Mr. Bridgman did own there was such a Thing, but did not instruct them how to come to the Sight of it. Tho' that spoke belch of the Commissioners, urged the Removal of the Lord Chief Justice of the King's Bench to the Common Pleas, as a Thing that made a new Commission needless for redressing his Title; But a Gentlemen, who pretended to have read it, gave them private Intimations that there were very large Additions, and very considerable Alterations in it at my Lord Chancellor's own House. The Servants brought Word, that my Lord would speak with the Peron himself that described to see it, and appointed him a Time; the Solicitor went at the Hour, but did not gain Access to my Lord, and so they could not see it at all, for it was Wednesday Night, or Thursday Morning.

THURSDAY, May the 12th, 1639.

Council-Chamber. Commissioners present as before, the Delegates appear with Dr. Peckwell.

Lord Chancellor. The last Time you appeared here before us, my Lords thought fit to set a Mark of their just Displeasure upon the
the Vice-Chancellor. Gentlemen, you cannot but be sensible, and so must all the World, how punctual and obliging the University has shown themselves in refunding the King's Commands, and such Commands, I must tell you, that ought to be obey'd.

There was a Time, you may remember Inquisitions, if you do not. I'll turn you to one in the Year 1667, when the Letters were so far from being disputed, that they palled for a Law among you, and do this Day find recorded among the Solemn Acts, and public Statutes of the University. Gentlemen, my Lords consider there is a Difference between the Vice-Chancellor's Date and yours, and therefore did not conclude you, who represent the Senate, with him, but have required your Attendance at this Time: They impute the Misarrangements of the Body to the Head Disafait chiefly; though neither are you without Fault, for being so much as unkindly under the King's Commands. Gentlemen, I must tell you, my Lords understand very well the fancy Inquisitions in your Paper, and have commanded me to tell you, That they know upon what Grounds they go, though they do not think fit to defend to Particulars: They know too how far that Authority extends, not only to you of the University, but to the Societies within this Kingdom. Gentlemen, your left Court will be a ready Obedience to his Majesty's Command for the future, and by giving a good Example to others, to make Amends for the ill Example that has been given you. Therefore I shall say to you what the Scripture says, and rather because most of you are Divines: Go your way, and sin no more, lest a worse thing come unto you.

The late King's Letters, mentioned by my Lord Chancellor, April 1667, concern the regulating forces of the Publick Exchequer in the University; the Meaning wherein is this: The King is their Visitor, and whenever there is any thing belonging to the local Statutes and Customs which they think ought to be altered, or any Abuse which should be rectified and redress'd, their way is to beg the King's Royal Injunction in the Cafe, which they keep upon Record, and obey as a Statute. How good an Argument is this against them, for not obeying a private Mandate, contrary to force of the Town Laws of the Land, and how parallel the Cafe, is easy deform'd.

As they were drawing off, he call'd them again, and said,

Lord Chanc. Hold, Gentlemen, I know something more to say to you. My Lords require, as a Testimony of your Obedience, that you, who represent the Senate, should take Care they have the University Statutes brought to lie before them here.

Dr. Cook. My Lord, we do no longer represent the Senate; our Delegation is determined with the Vice-Chancellor's Deprivation, my Lord.

Lord Chanc. Well, if your Commission be expired, we will give you a new one; we are able to give you a Commission: We fopp'd you had sufficient Authority for appearing here.

Dr. Cook. Does your Lordship expect that we should attend with the Statutes our selves?

Lord Chanc. No, no, find them up by a proper Officer: You are only to carry a Message from us to the Senate, and tell them what we expect.

Dr. Eckard. In what Time does your Lordship expect them?

Lord Chanc. In a convenient Time; we will not tie you up; but if you be tardy, my Lords will take care to quicken you by an Intimation; I mean only a Copy, not original Statutes. You are now discharged from any further Attendance here.

The Delegates, upon the Vice-Chancellor's Deprivation, being no longer capable of acting as Publick Persons, and consequently of deriving any ill Consequence upon the Body they have represented, thought they might venture their own Persons more boldly: Therefore, in order to satisfy the World, they were mighty deft to bring about a second Hearing of the same Points, which, before the Vice-Chancellor's Sentence, they were not suffered to speak to, and which, when the Vice-Chancellor was asking, they had not an Opportunity of answering to so very particular as they could with more difficulty, confounding themselves to such Questions all the while, as did not concern the Vice-Chancellor solely and personally, but affected the whole Senate jointly with him: Which Orders they had likewise observed in interposing at the Trial, This Answer they had ready to offer in Writing, if that could be admitted; but if not, resolved to argue it by Word of Mouth: The Substance of it may be reduced to two Heads: First, The Bussifords of admitting others, and particularly Dr. Lightfoot, without Oaths. As to Lightfoot, Cafe, what they intended to have urged in Court, you have seen already; but as to others,

I. That Peers are by the very Act of Parliament 5 Eliz. exempted from the Oath.

II. That all such as the University calls Noblemen, have Time out of Mind enjoyed the Privilege of Peers.

III. That under that Quality they never admit any without Oaths.

IV. That if at any Time, upon the entertaining of a Prince, or any such Solemnity, any one has flipped out in the Crowd, which they are not conscious of, this is to be imputed to Harry and Indecency, and cannot be paralleled to this Cafe, where the Senate allied with Lufiers and Deliberation.

V. That even these Degrees, given to Noblemen and Strangers, are Historical and Complimental, and so different from what the Statute calls Degrees of Learning, that none of them, or any other Person, can have any Title, or any advantage in their Profession.

VI. That supposing never so many to be admitted without Oaths, this they acknowledged to be irregular, and the Breach of a Law in use can be no Precedent for another to follow.

VII. That however, they are very fully and particularly offered, no Man was ever admitted, who positively refused the Oaths, which this Mr. Francis did,

I. That every Man who is a Member of that, or any other Senate, hath such a Right to protest, debate, and adjure, as Occasion shall require, and protest against any irregular Proceedings in it.

II. That, to any Matter contrary to the Laws, and so highly concerning their University and Religion, as the opening such a Gap for the Man of a Professio to become Members of their Body and Senate (which every Kristen Matter of that is), it had been the greatest Injustice and Negligence to have fat fill.

III. That their Suffrage not being asked by the common Way, ought not to have been a Bar, because every Man in his Matrimonal Oath, obliged himself to be assisting to the Chancellor and Vice-Chancellor, and to defend the State, Honour, and Dignity of the University, according to his Power and Capacity; and this to do Suffragio & Concilium, rogatibus & non rogatibus.

L.1

IV. That
IV. That representing the whole Hanse Opinion by a few, is a Pratice common to all numerous Congregations, and usual in this, for any single Man, voluntarily to go and address the Vice-Chancellor in behalf of his whole College, or otherwise.

V. That the late King commanded, by his Royal Letters, that all Admissions to the Vice-Chancellor should be made in the most quiet, decent, and respectful Manner. And this Way was thought most conformable to the Command, than the Hurry of every Man applying himself Perfectly.

VI. To give the better Reputation to the Thing, and make it unexceptionable, the Persons sent from the Senate to the Vice-Chancellor, were all Men either of Publick Character in the Body, or the Seniors of their Houses, or men very eminent known in the University; but they being admitted, as you have seen, on Thursday, there was no Opportunity at all of offering a Dispute.

Animadversion on Wednesday, April 27.

This Day the Plea was given in, and the only Thing needful to be remarked is, the usual way of demeaning to the Court's Jurisdiction, which is commonly either the only, or first Plea, in such Cases: But the Delegates look'd upon themselves as obliged not only to defend their Cause, but to satisfy the World; therefore they were desirous that all People should be satisfied upon what Reasons they acted; and to this Purpose they first insisted upon them, which they did not at all doubt but it would be patiently heard; whereas, if the Court's Jurisdiction had come first, that would, in all Probability, have occasioned the whole Plea to be finish'd and over-ruled.

Saturday, May 14, 1687.

Mr. Atterbury came to Cambridge, with two Orders under the Commissioners Seal; one to the Preachers to proceed in the Choice of a new Vice-Chancellor, and the other to Magdalen-College Fellows: To each of which was annexed a Copy of the Sentence to be fix'd upon the School-Doors, and Magdalen College Gates: And on Thursday, May the 17th, Dr. Balderston, Master of Emanuel College, succeeded in the Office of Vice-Chancellor.

A Copy of Dr. Peachell's Sentence, as it was past on the Publick School-Doors, and Magdalen College Gates.

Whereas John Peachell, Doctor of Divinity, Vice-Chancellor of Cambridge, Master of Magdalen College, in the said University, has been accused before us, for his Disobedience to his Majesty's Royal Letters Mandatories, and other his Contempt; and the said Dr. John Peachell having been fully heard thereupon, we have thought fit, after mature Consideration of the Matter, to Declare, Doctum, and Pronounce, That the said Dr. John Peachell, shall, for the said Disobedience and Contempt, be deprived from being Vice-Chancellor of the said University, and from all Power of sitting in the same: And also, that he be Sufficiently ab Officio & Beneficio, of his Membership in the said College, during his Majesty's Pleasure; and accordingly we do by these Present Deprive him the said Dr. John Peachell, from being Vice-Chancellor of the said University, and from all Power of sitting in the same. And we also Sufficiently ab Officio & Beneficio, of his Membership in the said College, posthumously annulling and requiring him hereby, to abstain from the Function of Master of the said College, during the said Suffrages, under Pain of Deprivation from his Membership, and we also Sufficiently ab Officio & Beneficio, the Rights and Privileges belonging to his said Membership, in the said College, during the same Suffrage, be applied to the Use and Benefit of the said College.

Given under Our Seal, the 7th of May, 1687.

CXLII. Proceedings against St. Mary-Magdalen College in Oxon. for not Electing Anthony Farmer President of the said College, June, &c. 1687, 3 Jac. II. *.

A Narrative of the Election of Dr. Hough, President to St. Mary-Magdalen College, Oxon, 1687.

The Prefidentship of St. Mary-Magdalen College, in the University of Oxon, being void by the Death of Dr. Henry Clark, late President of the same, the Vice-President, Dr. Alcock, gave notice to all the Fellows present in the Chapel, on Thursday the 31st of March, 1687; where it was unanimously agreed to proceed to the Election of a President on Wednesday the 15th of April following, at Nine o'Clock in the Morning, in the Chapel: And in order thereto, the Vice-President caused a Citation to be sent' on the Chapel Door of the said College, notifying the Vacancy, Time and Place of the Election; according to the Direction of the Statutes. But before the Day of Election, being credibly informed that his Majesty

Majesty had been pleased to grant his Letters Mandate in Behalf of Mr. Anthony Farmer, they most humbly represented to his Sacred Majesty, in their Petition bearing Date April the 9th, That the said Mr. Farmer was uncapable, by their Statutes, of being President; and therefore did most humbly pray his Majesty to leave them to a free Election, or recommend such a Person to them, as was capable by their Statutes. And April the 11th, his Majesty's Letters Mandates were delivered by the Hands of Mr. Robert Charnock, Mr. of Arts, and Fellow of the said College, directed to the Vice-President and Fellows of Magdalen-College in Ox. requiring them forthwith to Elect the said Mr. Farmer, and admit him President: Which Letter the Vice-President read in the Chapel of the said College, between the Hours of four and five o'clock in the same Day, after Evening-Service, before the Fellows of the College, there present, and affixed them, Whether they in Obedience to his Majesty's Letters, would forthwith elect and admit Mr. Farmer President. Who all agreed, in Conformity to Mr. Farmer's not being qualified, and the Danger of Expulsion to any of the Fellows that should be absent from the Election, and that the Time of Election, according to the Citation, was no near, to defer their Answer till Wednesday following: Whereupon the Vice-President required all the Fellows to be present in the Chapel the said Wednesday Morning at nine o'clock. All the Fellows being then met, the Vice-President read the Statute De Electione Presidentus, and the Statutes 15 Eliz. against corrupt Elections was read also. After which the Vice-President read the King's Letter in Behalf of Mr. Farmer, and the second Time demanded an Answer of the Fellows thereto. Their Answer was to this Effect: That having a Petition now lying before his Majesty, they ought not to proceed to Election, till they had received his Majesty's Answer to the same: And thereupon they all agreed (except Mr. Charnock) that the Election should be deferred; which was accordingly done, until the next Morning nine o'clock.

Thursday April the 14th, at nine o'clock in the Morning, all the Fellows being met, the Vice-President told them, That the Election of a President had been deferred upon account of their Petition to his Majesty; in answer to which, they had not then received his Majesty's Pleasure; that the next Day was the utmost Time they could desire the Election by the Statutes, and therefore it was necessary they should come to some Resolution. He told them that the King had commanded them to elect Mr. Farmer, and asked their Sense therein: Which was unanimous (except Mr. Charnock) that the Election should be deferred till the next Morning eight o'clock; and in order thereto, the Sacrament to be administered first; and accordingly it was adjourned.

Friday, April the 15th, at nine o'clock in the Morning, the Vice-President and Fellows being met, Mr. Thomas Smith and Captain Baynham, two of the Fellows, acquainted the rest, from his Lord-President of the Council, That in Answer to their Petition, his Majesty had sent his Letter to the College, that he expected to be obeyed. After which, the Vice-President read again the King's Letter to them, and after, whether, in Obedience thereunto, they would elect and admit Mr. Farmer President? They answered, That they desired they might proceed to an Election. Then the Vice-President having proposed, whether having received his Majesty's Pleasure in Answer to their Petition, they would make any further Address? The Vice-President, Dr. Fairfax, Dr. Pudsey, and Dr. Thomas Smith, were for a second Address; but all the rest declared immediately for proceeding to the Election.

Then the Vice-President proposed, whether they would go to an Election Viva voce, by Scrutiny? The Vice-President, Mr. Thompson, and Mr. Charnock, were for proceeding to an Election Viva voce; all the rest were for going to an Election by Scrutiny, except Dr. Thomas Smith, who was not for going to Election, until the King should again be petitioned.

This therefore being the Sense of the Majority, That they ought to proceed to the Election of a President, according to the Statutes, and this the last Day limited for Election. In order thereunto, the Holy Sacrament was solemnly taken by all except Mr. Charnock. Then the Statute De Electione Presidentus, and 5 Eliz. against corrupt Elections, was read by the Vice-President. Every one took the Oath prescribed in the Statutes to be taken, in order of the Nomination of a President (except Mr. Thompson and Mr. Charnock, who refused it) And the two Senior Fellows were sworn Scrutators in the Scrutiny of the whole Society. For the Nomination of a President, Mr. Hough and Mr. Maynard had each of them the major Part of all the Voices; and were accordingly pronounced by the Senior Scrutator, Nuninius in Ordinie Electione Presidentus. Then the thirteen Senior Fellows being met to elect one of these two Presidents; and every one of them sworn according to the Statute; eleven of them elected Mr. Hough, who was accordingly pronounced President of St. Mary-Magdalen College in Oxon, by the Senior Scrutator, in the Presence of all the Fellows: And Mr. Maynard was appointed by the thirteen Senior Fellows to present the said President Elect to the Visitor, in order to his Admission. After this Mr. Thompson and Mr. Charnock declared Viva voce for Mr. Farmer, according to his Majesty's Letter.

Saturday April the 16th, Mr. Hough, President elect, was presented to the Visitor by Mr. Maynard, who at the same Time delivered to his Lordship an Instruetion under the College-Seat, containing the Proceedings of the Election: After a Sight whereof, Mr. Hough was sworn and admitted President by his Lordship, according to the Statutes.

Sunday, April the 17th, Mr. Hough, at his return to the College, took the same Oath again before the Society, and afterwards as President took his Seat in the Chapel, at four o'clock Prayers in the Afternoon.

A Copy of the King's Mandate to the Fellows of Magdalen-College.

JAMES R.

† Afterward Dean of Norwich.
‡ Afterwards Bishop of Lichfield and Coventry, now Bishop of Worcester. || The Bishop of Winchester.
Proceedings against Magdalen-College, Oxon. 3 Jac. II.

College of St. Mary-Magdalen, We have thought fit hereby efficaciously to recommend him to you for the Place of President of our said College, now void by the Death of Dr. Clark, late President thereof; willing and requiring you forthwith, upon Receipt hereof, to elect and admit him the said Anthony Farmer, into the said Place of President, with all and singular the Rights and Privileges, Emoluments, and Advantages aforesaid belonging, any Statute, Custom, or Constitution, to the contrary notwithstanding, wherewith We are graciously pleased to dispense with in this Behalf. And for, not doubting of your Compliance herein, We bid you Farewell.

Given at our Court at Whitehall, the fifth Day of April, 1687, in the third Year of our Reign.

A Copy of Magdalen-College’s Petition.

To the King’s most Excellent Majesty,
The Humble Petition of the Vice-President and Fellows of St. Mary-Magdalen-College in Oxon.

Most humbly flourished,

We have been credibly informed, That Mr. Anthony Farmer, who was not of our Foundation, has obtained your most excellent Majesty’s Recommendation to be President of your Majesty’s College, in the room of Dr. Henry Clark deceased.

We therefore, with all Submissi0n, as becomes your most dutiful and loyal Subjects, most humbly represent to your Sacred Majesty, That the said Mr. Farmer is a Person in several Respects unexceptionable of that Character, according to our Founder’s Statutes: And do most earnestly beseech your Majesty, as your Majesty shall judge fitest in your most Princely Wisdom, either to leave us to the Discharge of our Duty and Consciences, according to your Majesty’s late most gracious Toleration, and our Founder’s Statutes, or to recommend such a Person who may be more serviceable to your Majesty, and to this your Majesty’s College:

A Copy of the Lord Sunderland’s Letter to the Fellows.

Gentlemen,

The King being given to understand, That notwithstanding his late Mandate sent to you, for electing Mr. Farmer to be President of your College, you have made Choice of another Person; his Majesty commands me to tell you, He is much surprized at these Proceedings, and expects you should send me an Account of what passed on that Occasion, and whether you did receive his Majesty’s said Letters Mandate, before you chose Dr. Hengo. I am, Gentlemen, Your Affectionate and Humbble Servant,

SUNDERLAND.

The Cafe of the Vice-President and Fellows of St. Mary-Magdalen-College in Oxon. in their late Election of a President.

Upon Notice of the Death of Dr. Henry Clark, late President of St. Mary-Magdalen-College in Oxon, the Vice-President called a Meeting of the Fellows, in order to appoint a Day for the Election of a new President. The 12th of April was the Day predestined with Power to pronounce the Election to the 15th, by which time it was not in their Power to defer the same. This being agreed, a Citation or Premonition was fixed upon the Chapel-Door of the College, signifying the same; and summoning all the absent Fellows to repair home to the ensuing Election, as the Statute in that Case directs.

After this, upon the 15th of April, they received his Majesty’s Letter in Behalf of Mr. Farmer, requiring them to elect and admit him President: But he having never been Fellow of that College, nor Novo Collegio, in which are the only Persons capable of being chosen by the Statutes: and wanting likewise such personal Qualifications as are required in the Character of a President, they did not imagine it was, or could be his Majesty’s Pleasure, that they should act so directly contrary to the express Words of their Statutes, to which they are blindly and positively torn: But humbly conceive they were bound in Duty to believe, that his Majesty had been misinformed in the Character and Capacity of Mr. Farmer. And therefore on the 15th of April, the htt of those Days within which they were confined to finish the Election, they proceeded to a Choice; and having first received the sealed Enrols, and taken an Oath, as the Founder enjoins, to choose a Person so qualified, as is there specified, they did elect the Reverend Mr. John Hugh, Bachelor in Divinity, who is a Person every way qualified by the Statutes of the said College: And if it shall be objected that his Majesty did in his Letter for Mr. Farmer graciously dispense with all the Statutes that rendered him incapable of being elected; and that therefore they might have obeyed without Breach of their Oaths: They humbly beg leave to reprecive, that there is an express Clause in that Oath, which every Man takes when he is admitted Fellow of the College; wherein he swears, not to procure, accept, or make use of, any Dispensation from his Oath, or any Part thereof, by whomesoever procured, or by what Authority ever so granted. As to their former Practice, when they have elected in Obedience to the King’s Letter hereunto, it has been always in such Cases where the Perins recommended have been every way qualified for the Office by their Statutes: In which Cases they always have been, and ever will be, ready to comply with his Majesty’s Pleasure, it not being without unpeckable Regret, that they disobey the least of his Commands. They know how entirely their Welfare depends upon the Consentine of their Prince; nor do anything more deeply affect and grieve their Souls, than when they find themselves reduced to this unfortunate Necessity, of either disobeying his Will, or violating their Consciences by notorious Perjuries.

A Copy of a Letter to the Duke of Ormond, April the 18th, 1687.

May it please your Grace,

We are the President, and Fellows of Magdalen-College in Oxon, sensible of the Benefits and Honour we enjoy under your Grace’s Patronage, and how much it imports us to have your Advice in all the Difficulties wherewith we are pres’d, having, as we fear, displeased his
A Copy of the Citation to the Vice-President and Fellows, for to appear at Whitehall, June the 6th, 1687.

By his Majesty's Commissioners for Ecclesiastical Causes, and for the Visitation of the Universities, and of all and every Cathedral and Colle"giate Churches, Colleges, &c.

Complaint having been made unto Us, that the Vice-President and Fellows of St. Mary-Magdalen College in Oxon, have refused to comply with his Majesty's Letters Mandatory, for electing and admitting Mr. Anthony Farmer President of the same College, in the room of Dr. Clark deceased, and that, notwithstanding his Majesty's Letters, they have elected Mr. John Hengre President of the said College: You, and either of you, are hereby required to cite and summon the said Vice-President and Fellows, requiring them, or such of the said Fellows as they shall depute in their behalf, to appear before Us in the Council-Chamber at White-Hall, upon Monday the 6th of the next Month of June, at Four in the Afternoon, to answer to such Matters as shall be objected against them, concerning the Premises; and of the due Execution thereof, you are to certify Us then and there.

Given under Our Seal the 25th of May, 1687.

To Thomas Atterbury,

And

Robert Eldow; or to either of them.

The Answer of the Vice-President, and other Fellows, of Magdalen College in Oxon, who were deputed by the said College, to the Summons purposed by the Right Honourable and Right Reverend the Lords Commissioners for Ecclesiastical Affairs, viz.

Why they did not obey his Majesty's Letter, requiring them to elect and admit Mr. Anthony Farmer President of the said College?

The said Vice-President, and other deputed Fellows, answered and said, That the said College of St. Mary-Magdalen in Oxon, is a Body Corporate, governed by local Statutes, granted and confirmed to them by his Majesty's Royal Predecessor, King Henry VI. for him and his Heirs and Successors, under the Great Seal of England; which are also since confirmed by several other Patents of others of his Majesty's Royal Predecessors, under the Great Seal of England. That by the said Statutes of the College (to the Observation of which each Fellow is sworn) it is ordered, that the Person elected President thereof, shall be a Man of good Life and Reputation, of approved Understanding and good Temper, discreet, provident, and circumspect, both in Spiritual and Temporal Affairs. And at the Time of Election of a President, the said Fellows are bound by the said Statutes to take an Oath, that they shall nominate none to that Office, but such as are, or have been Fellows of the said College, or of New-College in Oxon, or if they are not actually Fellows at that Time of Election, that they be such as have left their Fellowships in their respective Colleges upon credible
credible Accounts. And when two qualified Per-
fons shall be nominated at the Time of Election,
by the greater Number of all the Fellows, to the
said Office of President, the thirteen Senators also
fowr that they will elect one of them, whom in
their Confidence they think most proper and suffi-
cient, most discreet, most useful, and best quali-
fied for the Place; without any regard to Love,
Hatred, Favour, or Fear. And every Fellow,
when he is first admitted into his Fellowship in the
said College, fwear that he will inviably keep
and observe all the Statutes and Ordinances of the
College, and every thing therein contained,
so far as does or may concern him, according to the
plain, literal, and grammatical Sense and Mean-
ing thereof, and, as much as in him lies, will cause
the same to be kept and observed by others; and
that he will not procure any Disputation contrary
to his aforesaid Oath, or any Part thereof, nor
counter to the Statutes and Ordinances to which it
relates, or any of them; nor will he endeavour
such Fich Disputation shall be procured by any
other, or others, publicly or privately, directly
or indirectly. And if it shall happen that any Di-
spiration of this fort, of whatsoever Kind it
shall be, which shall be nominal or particular, or un-
der what Form of Words forever it be granted,
that he will neither make use of it, nor in any
fort content therunto. That upon Notice of the
Death of Dr. Clark, late President of the said Col-
lege, the Vice-President called a Meeting of the
said Fellows, in order to the appointing a Day
for the Election of a new President, and the 19th of
April was the Time prefixed, with Power to
prorogue the same as they should see Cause, till
the Time fixed; and that Time not being by Law or
Statute determinate their Election; and in Pursuance
thereof a Citation or Premonition was fixed upon the
Chapel-door of the said College, signifying the
same; and by which the absent Fellows were
summoned to repair Home, as the Statute in the
Cafe requires. And the said Vice-President and
dother absent Fellows farther say, that on the
11th of April aforesaid, they received his Maje-
y's Letters Mandatory, to elect and admit the
said Mr. Anthony Farmer, Fomer President of the said
College. But found, as the said Vice-President and
Fellows apprehended the Right of Election
be in them, and believed his Majesty never in-
tended to dispossess them of their Rights: And
forasmuch as the said Mr. Farmer had never been
Fellow either of Magdalen or New College in Oxon.
and had not those Qualifications, which in and by
the said Statutes of the College are required in the
Character of a President, as they in their Confi-
cences did, or do verily believe, and in regard that
they could not consent to his Majesty's Letter,
without the Violation of their Oaths, and Hazard
of their legal Interest and Property, wherewith
they are by their Statutes possessed, and which
by their Oaths they are bound to maintain, they
represented the same by their humble Petition to his
Majesty. And having deferred their Election of a
President to the last Day limited by their Sta-

tutes, then they proceeded to Election, and ha-
ving first received the Euchariat, and taken the said
Oaths be, which the Statutes enjoin, to choose a Perfon
so qualified as before expressed, they did elect the
Reverend Mr. John Hough, B. D. and one of the
Fellows of their College, a Perfon every way
qualified to be President, who has been since confirmed
by the Bishop of Wiston, their Visitor, as the Sta-
tutes of the said College direct.

And that they might lie under his Majesty's
Displeasure by their Proceedings, they did, on the
19th of April, make an humble Reprefentation,
thereof to his Majesty, by his Grace the Duke
of Ormond, Chancellor of the Univerfity of Oxon,
se-
ting forth their indifpenfable Obligations to oblige
their Founder's Statutes.

All which Matters the Vice-President, and other
deputed Fellows, do humbly offer to your Lord-
ships, and pray to be dismissed with your Lord-
ships Favour.

The Answer was signified but by five of the de-
puted Fellows, Dr. Fairfax not consenting to it,
who defired their Lordships to hear them apart,
and take his Reasons, why he could not subscribe.
After the reading of the Answer, the Lord Chan-
cellof Jefferys being in Hopes he would submit,
gave him Leave to speak, faying, Ay, this looks like
a Man of Sense, and a good Subject; let's hear
what he will say. But finding his Milkake, and
that Dr. Fairfax chiefly insisted, "That in Eccoli
affixed Courts there should be a Libel given
"to the Party appeared, that he might know what
he is accused of; that he could not be a Libel, and
"did not know what he was called there for; and
"that the Matter did not lie in that Court, but
"in Wychefaller-Hall." The Chancellor endeav-
oued to baffle his Plea, by telling him, He was
Doctor of Divinity, but not of Law. To this the
Doctor replied, That he defir'd to know by what
Conuniffion and Authority they sat: Which put
Jefferys into such an effifion of Passion, as made
him cry out, Pray what Conuniffion have you to be
fo committed in Court? This Man ought to be kept in
a dark Room. Why do you offer him without a
Guardian? Why did not you bring him to me to leg
him? Pray let the Officers seize him.

Then the Fellows were ordered to withdraw, and
after an hour's Debate, the Vice-President
was called to a Vote, and ordered to attend the
Court, with the rest of the deputed Fellows, on
Wednesday the 22d of the same Month. On the
appointed Day the Fellows attended, and gave in the
following Reasons against Mr. Farmer.

W
Whereas the Vice-President, and other de-
puted Fellows of St. Mary-Magdalen College in Oxon.
have, in their Answer to your Lordships,
say forth, that by the Statutes of the said College
it is ordered, That the Person to be elected Pre-
dent thereof, should be a Man of good Life and
Reputation, and of good Manners and Temper;
and likewise, that Mr. Anthony Farmer hath not
thofe Qualifications, which in and by the said Sta-
tutes are required in the Character of a President,
as they in their Confinences do verily believe;
lieve. They humbly crave Leave to represent to your
Lordships some of thofe Reasons which induced
them to fuch Belief, viz.

That Mr. Farmer did misbehave himself in Tri-
inity College in Cambridge: That he received Ad-
monition from the Master of the College, in order
to his Expiation; which remains in the Register
of the said College, under his own Hand.

That having left Cambridge, he taught School at
Chepneys in Flourham, under a Nonconformist
Minifter, without Licence.

That in September, 1682, the said Mr. Farmer
was entered into St. Mary-Magdalen Hall in Oxon,
where
where such frequent Complaints were brought against him to the Principal, for his troublesome Humour and unquiet Temper, that, to preserve the Peace of the Society, he was desired to leave the said Hall.

That after his leaving Magdalen Hall, he was admitted into Magdalen College; where discoursing about Religion, he declared, That there was no Protestant but would cut the King's Throat. Notwithstanding which, at other Times, he declared to some of the Fellows of the said College, That whatever he pretended, he was really a Member of the Church of England, and that he made an Interest with some Roman Catholics, only to get Preferment by their Means, and for that Reason was willing to be thought of their Religion.

That at the very Time when his Majesty's Letter came to the College in his Behalf, the said Mr. Farmer was at Abingdon in very ill Company, where he continued drinking to Excess two or three Days and Nights together; and amongst other Disorders, was one of those that then in the Night Time threw the Town-Stocks into the River: And that in general, the said Mr. Farmer hath had the Unhappiness to lie under an ill Famine, as to his Life and Conversation, as by several Letters and Certificates, ready to be produced, will more largely appear.

Copies of Letters and Certificates delivered to the Lords Commissioners for Ecclesiastical Affairs, June 27, 1667.

I. Anthony Farmer, Bachelors of Arts, and Scholar of this College, do complain, That I have behaved myself very unlike a Member of this College, and even a Christian, at the Dancing-School: For which I humbly ask Pardon, and do acknowledge before the Seniority, that I have demeaned myself not as a Master's first Admonition in order to Expulsion.


Anthony Farmer.

This is a true Copy of Anthony Farmer's Admonition, attested by us whole Names are hereunto written.


II. These are to certify, that Mr. Anthony Farmer was Usher to Mr. Benj. Flower, a Non-conformist Preacher in the Town of Chippenham in the County of Wilts, for the Space of Half a Year or upwards, the said Mr. Flower keeping School without Licence from the Bishop, and the said Mr. Farmer continuing his Usher for the Time mentioned, without any Licence also. Witness our Hands,

Vice Magist. Deput.

III. Mr. Anthony Farmer was entred of St. Mary-Magdalene Hall in Oxford, September, 1668. Where, after he had been some Time, frequent Complaints were brought to me by some of the Masters, that he misled Quarrels and Differences among them; that he often occasioned Disturbances, and was of a troublesome and unpeaceable Humour. Whereupon, that Love and Friendship might be preferred and continued in the Society, as it is used to be, I advised the said Mr. Farmer to make Trial if he could live more easily and quietly in some other House. Accordingly he did voluntarily leave the Hall, July the 13th, 1668, and got himself admitted into Magdalen College.

William Lever, Principal.

IV. I do certify, That Mr. William Bawdrip, Gentleman Commoner of Magdalen Hall, Oxon, did say, that Mr. Anthony Farmer, Master of Arts, did enquire him from his Studies in the University to go to London, where he did the said Mr. Farmer did attempt to draw the said Mr. Bawdrip into several Deboucheries, both at Taverns and Bawdy-houses. Witness my Hand.

John Byland, Master of Arts of Magd. Hall.

V. I do certify, That Mr. William Bawdrip, Gentleman Commoner of Magdalen Hall, did say, That Mr. Anthony Farmer, Master of Arts of the said Hall, did receive Money of him and other Gentlemen, publicly to expouse unto him a naked Woman; which he accordingly did. Witness my Hand.

Richard Clerk, Master of Arts of Magd. Hall.

June 9, 1667.

VI. I am very willing to justify any thing I have formerly said, relating to so serious a Matter as this you enquire after.

Mr. Farmer, one Night in the Cloister, asked me why I did not get a Commission: I told him truly, I had not Friends to do it for me. He then asked me, what I would do for one? I told him, I would fight for my King, and whatsoever he should command me. He then asked me, if I would fight for the King's Religion? I told him, there would be no Occasion for that, nor would it ever be required of me. He asked me of what Religion I was: I told him a Protestant. And then he said, there was no Protestant but would cut the King's Throat; and that he should lose three thousand Pounds for being of that Religion he intended to be of; which he said was a Papist. This, to the best of my Remembrance, is the full of what he said. If I have omitted any thing, it is my Care not to write more than I would honestly and justly swear to. I am,

SIR,
Your most obliged, and most humble Servant,
John Bradburn.

VII. Nor about January last, 1669, Mr. Anthony Farmer declared before us, That the Report of his being a Papist was false; but that he was willing to be thought so, because it might do him a Kindness: That the Reason of his Acquaintance with Mr. Bresie and Mr. Walker, was to get Preferment by their Interest: That he had not forsaken the Protestant Religion; adding, we should call him a Rogue, if ever he did. That he would not make any publick Declaration of this, but would declare it amongst his Friends, when and where he pleased.

Henry Dobson,
J. FAYRE,
THO. Goodwin.

VIII.
VIII. I do hereby certify, That Robert Gardiner, Porter of St. Mary-Magdalen College, did tell me, that Mr. Farmer did very often come into the College late at Night, so much in Drink, that he could scarce go or speak. Witness my Hand, this 9th Day of June, 1687.

George Fulham.

UPON Monday, April the third, Mr. Farmer came to the Lobber in Abington with Mr. Clerk, Mr. Groceau, and Mr. Younger, about eight in the Morning, and stood some time in the House, and went from thence to the Tavern; returned again about eleven at Night, and fat till one in the Morning: The next Day they went to the Bofe Tavern and sent for a Quarter of Lamb for their Supper, and there Mr. Farmer, Mr. Clerk, Mr. Groceau, and two Troopers and others, continued till past eleven at Night, and so returned to the aforesaid Place, and sat till past three in the Morning. This I do attorn, was the Company that the said Mr. Anthony Farmer kept, and there were the unmentionable Hours. In witness whereof, I am ready to swear, whenever a Subpost shall be sent to me.

George Mortimer.

Mrs. Mortimer is ready to attorn, That when Mr. Anthony Farmer returned to the Lobber about eleven at Night, he came much concerned in Drink, and was for killing the said Mrs. Mortimer, which, being a Stranger, the permitted him to do, but in doing of it, he killed Mr. Anthony Farmer put his Tongue in her Mouth, which was such a Rudeness, that the immediately went out of his Company and would not come nigh him any more.

Martha Mortimer.

Being in Company with William Hopkins of Abington, the 12th of June last 1687, I heard him declare, That himself, with one Mr. Farmer of the University of Oxon, and some others, did in a Folly, at an unmentionable Time of Night, take away the Town Stocks from the Place where they constantly stood, and carried them in a Cart a considerable Way, and threw them into a Pool, commonly called Mad Hall's Pool. Witness my Hand, the Day and Year above written.

Charles Peacock.

Some Clauses of particular Statutes to exhibit the Case relates.

In their Statutes concerning their Election of a President, his Character is thus described: That he must be a Man of good Reputation, and good Life, and circumstance both in spiritual and temporal Affairs.

In the same Statutes the Oath which every Fellow is obliged to take, before he can give his Vote in the Nomination of a President, is this: viz.,

That he will name one or two of St. Mary-Magdalen-College, or of those who have been Fellows there, or have left their Places upon a legal and credible Account: Or that he will name one or two of the Fellows of St. Mary-Winchester College, commonly called New College in Oxon, or of those who have been formerly Fellows there, and have left their Places upon a credible Account. After this, the thirteen Senior Fellows swear, That out of the two thus nominated, they will, with all Speed, elect one to exercise the Office of a President, whom in their Conferences they think most proper and sufficient, most discreet, most useful, and best qualified for it, either without any regard to Love, Hatred, Favour, Fear, &c., as in the fore-mentioned Statute is more largely exprest.

Part of the Oath which every Fellow takes when admitted.

I do swear, that I will not procure any Dispensation contrary to my aforesaid Oath, or to any Part thereof, nor contrary to the Statutes and Ordinances to which they relate, or any one of them; nor will I endeavour that any Dispensation be procured by any other or others, publicly or privately, directly or indirectly: And if it shall happen that any Dispensation of this Sort shall be procured, or freely granted or obtained, of what Authority forever it be, whether in general or particular, under what Form of Words forever it be granted, I will neither make use of it, nor in any Sort consent thereunto.

So help me God.

A Copy of Dr. Hough's Depression, by his Majesty's Commonwealth for Ecclesiastical Affairs, &c.

Whereas it appears to us, that Mr. John Hough, B. D. hath been unduly elected President of Saint Mary-Magdalene College, in the University of Oxon. We have thought fit, upon mature Consideration thereof, that the said Election shall be declared void, and the said Mr. John Hough be removed from the said Presidentship; and accordingly we do hereby declare and decree, that the said Election is void; and do amove the said Mr. John Hough from the Place of President of the said College.

Given under our Seal this 22d Day of June, 1687.

A Copy of Dr. Aldworth's and Dr. Fairfax's Suf- ferings.

Whereas Charles Aldworth, Doctor of Laws, Vice-President of St. Mary-Magdalen College, Oxon, and the Deputies, Fellows of the same House, have been convers'd before us, for their Contempt in not obliging his Majesty's Letters Mandatory, for Electing and Admitting Mr. Anthony Farmer President of the said College, and the said Dr. Aldworth and Deputies having been heard thereupon, We have thought fit to declare, pronounce, and decree, That the said Dr. Aldworth shall for the said Contempt be suspended from being Vice-President of the said College: And that Henry Fairfax, Doctor of Divinity, one of the Fellows of the said College, shall for the said Contempt be suspended from his Fellowship; and accordingly We do hereby suspend Dr. Charles Aldworth from being Vice-President of the said College, and the said Dr. Henry Fairfax from his Fellowship in the said College.

Given under our Seal the 22d Day of June, 1687.

A Copy.
A Copy of the King’s Inhibition to Magdalen-College.

JAMES R.

Ruly and Well-beloved, We Greet you well: Whereas We are informed, that a Sentence or Decree lately made by Our Commissioners for Ecclesiastical Affairs, touching an Election in that our College, hath not been obeyed, Our Will and Pleasure is, no Election or Admission be made of any Person or Persons whatsoever, into any Fellowship, Deanship, or other Place or Office in our said College, till We shall signify Our further Pleasure, any Statute, Custom, or Confinement to the contrary notwithstanding. And so, expecting Obedience herein, We bid you farewell.

Given at Our Court at Windsor, the Eighteenth of July, 1687, in the Third Year of Our Reign. By his Majesty’s Command.

SUNDERLAND.

A Copy of his Majesty’s Mandate for the Bishop of Oxon. to be President.

JAMES R.

Trusty and Well-beloved, We Greet you well. Whereas the Place of President of Our College of St. Mary-Magdalen, is now void, Our Will and Pleasure is, and We do hereby authorize and require you forthwith, upon Receipt hereof, to admit the Right Reverend Father in God, Samuel Lord Bishop of Oxon. into the said Place of President, to hold and enjoy the same, with all the Rights, Privileges and Profits, Emonuments and Advantages thereunto belonging, any Statute or Statutes, Custom or Confinement, to the contrary, in any wife, notwithstanding, wherewith We are graciously pleased, and do accordingly hereby dispense in his Behalf: And so expecting your ready Obedience herein, We bid you Farewell.

Given at our Court at Windsor, August 14th, 1687, in the Third Year of Our Reign. By his Majesty’s Command.

SUNDERLAND.

A Copy of the Lord Sunderland’s Letter to the Senior Fellows, Dr. Pudsey, of St. Mary-Magdalen College in the University of Oxon. or in his Absence, to the Senior Fellows residing there.

THE King having been pleased by his Letters Mandatory, to require the Fellows of St. Mary-Magdalen College, to admit the Lord Bishop of Oxon. President of that College; his Majesty commands me to let you know, That immediately upon the Receipt hereof, he would have you assemble the Fellows, and communicate to them his Majesty’s said Letters: And I am further commanded to tell you, That his Majesty expects a ready Obedience to be paid to his Pleasure herein. I desire you would send me an Account of your Proceedings, as soon as you can, that I may acquaint his Majesty therewith. I am,

Yours,

SUNDERLAND.

A Copy of the Bishop of Oxon’s Letter to the Senior Fellow of St. Mary-Magdalen College in Oxon. or, in his Absence, to the Senior Fellows residing there.

S I R,

Y OU will receive herewith his Majesty’s Mandate to admit me President of your College of St. Mary-Magdalen in Oxon. together with a Letter of my Lord Sunderland’s, pursuant to his Majesty’s Commands. I am indigested, as I have been for some Time, and not in a Condition as yet to travel; and therefore my Request to you is, That upon Receipt of the King’s Pleasure, you would do me the Favour to admit me by Proxy (i. e.) either the next Senior Fellow under your self, Refident, or either of my Chaplains, Mr. William Wickens or Mr. Thomas Collins, whom I depose in my stead, which is as valid in Law, as if I were present myself; and is the most usual and customary Practice. And by so doing, you will oblige,

Your very loving Friend, and Brother,

SAMUEL OXON.

OXON, September 4th, 1687.
The Lord Sunderland sent an Order to the Fellows of St. Mary Magdalen College, to attend the King at Chrift-Church, at Three in the Afternoon. They attended accordingly.

King.

WHAT’s your Name? Are you Dr. Pudsey?

Dr. Pudsey. Yes, may it please your Majesty.

King. Did you receive my Letter?

Dr. Pudsey. Yes, Sir, we did.

King. Then you have not dealt with me like Gentlemen; you have done very uncivilly by me, and unduly.

Here they all kneel, and Dr. Pudsey offers a Petition, which his Majesty refused to receive; and said,

King. Ye have been a stubborn turbulent College; I have known you to be so these five and twenty Years. You have affronted me in this. Is this your Church of England Loyalty? One would wonder to find so many Church of England Men in such a Buffoon! Go Home, and shew your selves good Members of the Church of England. Get you gone; know I am your King. I will be oblidged, and I command you to be gone. Go and amuse the Bishop of Oxon. Head, Principal, what d’ye call it, of the College. [One who stood by, said President] I mean President of the College. Let them that refuse it look to it; they shall feel the Weight of their Sovereign’s Displeasure.

The Fellows going out of the Lodgings, were called back.

King. I hear you have admitted a Fellow of the College, since you received my Inhibition. Is this true? Have you not admitted Mr. Hollow Fellow?

Dr. Pudsey. I think he was admitted Fellow. But we conceive——

Mr. Catt. May it please your Majesty, there was no new Election, or Admission, since your Majesty’s Inhibition, but only the Confirmation of a former Election. They always elect to one Year’s Probation, then the Person elected is received or rejected for ever.

Mn in

King.
King, The Consummation of a former Election! even downright Disobedience; and 'tis a fresh Aggravation. Get you gone Hune, I say again; go, get you gone, and immediately repair to your Chapel, and elect the Bishop of Oxon. or else you must expect to feel the Weight of my Hand——

The Fellows offered again their Petitions on their Knees.

King, Get you gone, I will receive nothing from you till you have obey'd me, and admitted the Bishop of Oxon.

Upon which they went immediately to their Chapel, Dr. Pudsey preaching, Whether they would obey the King, and elect the Bishop of Oxon? They enforcing in their Turn, They were as ready to obey his Majesty in all Things that lay in their Power, as any of the rest of his Subjects. But the electing the Bishop of Oxon being directly contrary to their Statutes, and the positive Oaths they had taken, they could not apprehend it in their Power to obey him in this Matter.

A Copy of the Petitions offered at Oxford, September 24th, 1677.

To the King's most Excellent Majesty, &c.

Humly presented,

That upon the 27th of August we received your Majesty's Letters Mandated, dated August 14th, requiring us to admit the Right Reverend Father in God Samuel Lord Bishop of Oxon. to be our President; and dispenfing with all Statutes and Confinements to the contrary. It is an inexplicable Affiliation to us, to find our selves reduced to such an Extremity, that either we must disfavour your Majesty's Royal Command, contrary to our own Inclinations, and that costly Court of Loyalty which we have been in all Iniances hitherto to all Occasions whatsoever, or else break our Founder's Statutes, and deliberately perjure our selves.

For our Founder hath obliged us under Oath, when we came in Fellows, involvably to observe his Statutes, and one Clause therein enjoins us never to admit or make use of a Delegation granted by any Authority whatsoever, whereby we may be absolved from the fame. In this Statute for the Election of a President, he commands us upon Oath to elect such a Person into the Place of President within fifteen Days after the Vacancy, who either is, or has been Fellow of our own, or New College. Which is a precedent to your Majesty in our humble Petition, signed April 4th, whereof we offered our selves ready to elect any Person capable of the same, who your Majesty should be pleased to recommend, and having waited the utmost Time limited by our Statutes, and receiv'd no Answer to that Effect, we did then, according to the Exigence of our Statutes (having first taken the Holy Oath, and our several Oaths to that Purpose) nominate and elect such a Person as we in our Confinements did believe to be every way qualified for the Place. By which Acts of ours we have conveyed all that Right to him which our Founder hath entrust'd us with, and it does not lie in our Power to admit any other. Our Founder in another Statute obligeth us, under the Pain of Perjury, a dreadful Anaemia, and eternal Damnation, not to suffer any of his Statutes to be altered, infring'd, or dispenn'd with, and commands us under the same fard Obligations, not to execute any Orders or Decree whatsoever, contrary or repugnant to the said Statutes; by which said Statutes and Oaths, we are utterly incapacitated to admit the said Reverend Father in God to be our President.

May it please your sacred Majesty, to give us leave to lay this our Case, and our selves, with all Submission, at your Royal Feet, most earnestly beseeching your sacred Majesty, to extend to us your humble Petitioners, that Grace and Tenderness which your Majesty hath vouchsafed to all your other Subjects, and not to believe us guilty of any Offendary or Undeserving, Crimes which our Souls abhorr; but to receive us into your Majesty's Grace and favour, the general Temporal Blessing which our Harts can wish.

And your humble Petitioners shall always (as is Dutybound) pray to Almighty God, to bless your Majesty with a long and happy Reign over us, and afterwards to receive you to an immortal Crown of Glory.

A Copy of the Alderdyces which the Fellows of St. Mary-Magdalene College gave to the Lord President of the Council, Sept. 6, 1677, and which was delivered his Majesty at Bath.

We your Majesty's most humble, and most dutiful Subjects, the Fellows of St. Mary-Magdalene College in Oxon. being deeply afflict'd with the late Sence of your Majesty's heavy Displeasure, grounded, as we in all Reason humbly presume, upon a most unkind Misapprehension of our Actions, in relation to an Election of a President into your Majesty's said College; do humbly beg Leave to prostrate our selves at your Royal Feet, offering all real Testimonies of Duty and Loyalty. And as we have never fail'd to evidence both our Principles and Practices to be truly loyal, in Obedience to the Commands of your Royal Brother, and your sacred Self, in Matters of the like Nature; so whatsoever way your Majesty shall be pleased to try our Readiness to obey your Royal Pleasure in any Affair that does not interfere with and violate our Confinements, which your Majesty is fluent to preserve, we shall must gladly and effectually comply therewith. A Rubbish and a grain'd Relish of your Royal Will and Pleasure, in the present, and all other Cases, being that which our Souls eternally abhor, as becomes,

Your Majesty's most loyal and most obedient Subjects, &c.

A Copy of a Letter directed to Dr. Bayley, Fellow of Magdalene College, Oxon. supposed to be writ by Mr. William Penn.

I R, Upon an Inquiry made of your present Fellows of Magdalene College, I am informed that you are a Person eminent in that learned Body, for your Temper, Prudence, and good Conduct in Affairs; and therefore very fit to be address'd to by me, who do not offend you this to trapan you and your Brethren, but out of a passionate Concern for your Interest, to persuade you either to a Compliance with his Majesty's Letters Mandatory, or to think among your selves of some Expeditious to prevent the Ruin of your College, and your selves:

And
To offer it to his Majesty's Royal Consideration, that the Order for the quo warranto against the College may be recalled, before it be too late; for you cannot be secure how highly his Majesty is incensed against yours, neither can you give one Infancy whether ever that Sort of Proceeding was judged against the Crown. Your Cause most think but a Bird; but you are not in Prudence to rely on the Goodness of your Cause; but to do what the present Infant of Affairs will permit, and in Patience to expect a Season that will be more auspicious to Persons of your Character. Every Mechanick knows the Temper of his present Majesty, who never will receive a Buffer in any thing that he heartily or publick; and that to do this, yourselves have laid too late and manifast an Infancy, to doubt of his Zeal in the Affair.

Where there are so many Statutes to be observed, his impossible but done must be broken at one time sooner; and I am informed by the Learned of the Law, that a Failure in any one Point, forfeits your Grant, and lays your College open to the Royal Disposal.

I could give many other prudent Arguments that that might possibly incline you to a speedy En- deavour of putting an end to your Troubles, almost at any rate; but I shall suggest this one thing to you, that your fatal Overtrowers were by a fair Beginning of too much aimed at Reformation, first of the University, then of the Church, and adminislter such an Opportunity to the Enemy, as may not perhaps occur in his Majesty's Reign.

Your affectionate Servant, &c.

The Answer to the afore-mentioned written Letter, dated October 3, 1687.

The enclosed Paper is a Copy of a Letter, which, by the charitable Purse of it, seems to be written by you, who have been already so kind as to appear on our Behalf, and are reported by all that know you to employ much of your Time in doing good to Mankind, and using your Credit with his Majesty, to undeceive him in any wrong Impressions given him of his conscientious Subjects, and where his Justice and Goodness have been thereby abused, to reconcile the Permons injured to his Majesty's Favour, and secure them by it from Oppression and Prejudice. In this Confidence, I premise to make this Application to you, defining your Excuse for not filling it: For if you did write the Letter, you know to whom it was directed, and if you had sent the Letter, it would induce you to make such use of your Light you have by it, into the Affairs of our College, as to mediate for us with his Majesty, to be restored to his good Opinion, as the only thing which is desired by us, who are zealous, above all earthly Things, for his Felicity and Glory.

We are not conscious of ever giving his Majesty any just Offence, as it will appear with you, when you shall have perused the enclosed Papers; and have therefore no reason to fear the issuing out of a quo warranto against us. And though you are pleased to apprehend it, no Infance can be given of a Judgment against the Crown, upon the Proceeds of that Writ: The Learned in the Law tell me, there is nothing more common, and wherever many Cases are reported by Kellomny, from Page 128, to Page 152, of his Book of Reports: And I think I have heard of a Case in Coke's ninth Volume.

And to not Electing Anthony Farmer, President, 271 part of the Abbots of Prata Marellis, which evinces the same; wherein also there is a Recital of Judgment given against Roger Martiner for the King, upon a quo warranto in Court of Eyre, reverse for Error in the King's Bench. We hope, though, we have many Statutes, it will be found that we have not willfully transgress'd any of them; for all our present Troubles are derived to us from our Adherence to them, and our Fear to offend God, and blemish our Consciences, by departing from them.

His Majesty is intentionally righteous and just in all his Proceedings; he will never knowingly intrust any Person with Power and Trust, but he is only pleased to declare in his excellent Speech made in Council, on the 6th of February, 1684, at his Acceptance to the Government; which is again repeated in his gracious Declaration for Liberty of Conscience, of the 4th of April last past. It is upon his sacred, inviolable, and Royal Word and Promise, we must depend; not doubting but when his Majesty shall be rightly informed of our Cafe, in reference to both his Mandatory Letters to our College, his Anger towards us will be totally extinguished. Our Compliance to the first (which was Mr. Farmer's Election) would have involved us in the Guilt of the Perjur'd Villain, and Perjured Person of many of our Statutes: And we are confident his Majesty would never have granted the second on the Behalf of my Lord Bishop of Osm, if he had known we were then possessed of a President duly elected according to our Statutes, and confirmed by the Bishop of Wintou, our Visitor (as the Statutes require) and if he is thereby invested with a Lay-Freethold under the Protection of his Majesty's Laws, which we cannot undo, or attempt to invade, without subjecting ourselves to Suits at Law, and doing an apparent Injury to the President, who doth not conceive himself to be affected with the Sentence of the Lords Commissioners (to which he was no Party) whereby this Place is declared void, without any Citations, Summons, or hearing of him.

I believe no Infance can be given of a quo warranto brought against a College or Hall in the Universities, from the first Foundation of them to this Day, or any other Ecclesiastical Corporation: For the Abuses of some Constitution or Franchises in them, and the Misdemeanors of particular Persons, will not deestroy a College: And if the Corporation of a College should be divided, the Revenues thereof will return to the Founder's Heirs, and not devolve to the Crown. And if our Colleges are Miserable Property, as he was informed, it shall be better justified by the first Observation of our Statutes (at least to God and our own Consciences) than we could have been by a voluntary and deliberate Breach of them.

It was Loyalty and Conscience, that, in the Reign of King Charles I. made thirty-four of our Forty Fellows, and most of the Scholars of our Foundation, rather quit their Places, and embrace Mifery and Ruin, than to submit to the Government of the Uffarers of the Crown. And in Monmouth's Rebellion, the same Indemnities prevailed on us to raise a Company at our own Charges, under the Command of Sir John de Wooton's, to propagoglath him. And we hope that those, and many other the like Iniances, which may be given of the Loyalty and Zeal of our Society to the Royal Family, will be received as Evidences thereof, and that our good and gracious Sovereign will
not exclude us from that Liberty of Confidence which he was pleased to extend to all his Subjects.

S I R, I am your most affectionate Servant.

Some Queries to the Fellow of Magdalen College from Windford, September 1687.

First, Whether, waving your Election of the Bishop of Oxon, you cannot, without Violence to your Confidence, signify to his Majesty, or the above Reverend Bishop, your Willingness to admit the Lord Bishop President of your College?

Secondly, Whether it be not more Interest to the Protestant Religion, to have a suspected Popham President, than to have all the Prerogatives of the College restored, by the King's sole Authority, with Popham Novices and Priests?

Thirdly, Whether you are not under a Mistake, in thinking you should render yourselves more acceptable to the Protestant Nobility and Gentry, by your being turned out of your Fellowships by Injustice and Violence, as you conceive; or rather will not they be very cautious how they receive you into their Families, for fear of giving Offence?

Fourthly, Whether his Majesty, as sup'rem Visitor of the University, cannot place or displace there ad libitum; or whether you have a right Notion of the Proceedings which have been practised against you? Whether you suppose that the Lords Commissioners proceeded against you as Lords Commissioners, or Visitors? Which Notion, I am sure, will overthrow some body's Plea and Exception against their Authority.

Fifthly, Whether you acted like Men skilled in Bufalins, when you refused Mr. Peen's Meditation, who you may be sure had good Authority for what he did? You could not but know that Man, and therefore must needs be force-armed against any Wiles that could be offered to you. Whether an unannounced Subscriptions for an Expendit (which indeed I think you ought not to refuse in good Manners, since the King was pleased to propose it) preferred to his Majesty by Mr. Peen, or another Favourite, would prevent the Destruction of the late Foundation in Elegy?

Lastly, Whether you be not drawn beyond your Knowledge by some hot-headed Advisers, which never consider the present State of his Majesty's Court of Justice?

An Answer to Several Queries to the Vice-President and Fellows of Magdalen College in Oxon. fast from Windsor, dated the 23d of September, 1687.

To the First, W E cannot, without Violence to our Conferences, and deliberate Perjury, admit any Perfon to be President of our College, that is not elected thereunto, and qualified according to our Statutes, wherein the Bishop of Oxon is in no Sort capable, nor is there at present any Memorial in our Register of any Admission of a President without Election; but of one Dr. NIcholas Bond, whose Café was as followeth; viz. Upon the Death of Dr. Laurence Humphreys, about the 90th or 39th of Queen Elizabeth's Reign, the Queen recommended Dr. Bond (being a Fellow of our College) to be elected President. Many of the Fellows inclin'd in their Judgment to elect one Smith (another of the Fellows) and at their meeting for Election, the Convention was so great, that they rote without Electing, and the Obligations continued till the Place became void: And there being no Provision in our Statutes to direct us what to do in such a Café, the Queen, by her Letters Patents, conferred the said Dr. Bond to be President, and therein declared, That her Majesty being informed that the Fellows had neglected to make Election of a President in due time (as their Statutes required) and those Statutes being made no Provision for such an Omnifion, she, out of her Principly Care for the Place, and indulgence for those Perfons who had been guilty of that Neglect, did, by Advice of the Bishop of Winton, their Visitor, constitute Dr. Bond their President; with Protestation nevertheless, that she did not thereby pretend to supercede their Statutes, or invite their Right of Election, which was thereby invested in them, but took this Course as the only means left to supply their Defect of Election.

To the Second. We must not make ourselves guilty of deliberate Perjury, for any Confusions whatsoever, but in respect to our Conferences, and their mean Design, if any of us be accused upon our Statutes, expose our Confinement to a Forniture, nor do Evil that Good may come on it.

To the Third. We conceive we shall be more acceptable to all good Men, for acting honestly according to our Conferences, than for voluntarily and unjustly departing from our Right.

To the Fourth. We pretend not to make it a Question, whether his Majesty, by his Authority Royal, as sup'rem Visitor, can grant a Commission for Vitiation of any College that has a local Visitor by their Statutes, and are not Royal Foundations: But we are advis'd, that no Commission can be granted under the Great-Secre to Visitors, to place and displace Members of Colleges (where Places are Freeholdes ad libitum, or dispositio; but they must proceed according to legal Direc-tion, that is, by the Laws and Statutes of the Land, and the local Statutes of the College: And Places concern'd for the Headships and Fellowships of Colleges, are temporal Possessions, and cannot be impeach'd by Innominate Proceedings. One Dr. Thomas Lazard, President of our College, was deprived in Queen Elizabeth's Time, by the Bishop of Winton, the legal Visitor thereof, eftabllish'd by Royal Authority, and he appeal'd to the Queen; But by the Advice of all the Judges, it was held, that the Queen, by her Authority, as sup'rem Visitor, could not meddle in it, but he must bring the Cause to the ball, because Deposition was a Cause near Temporal. The King has a great Authority Spiritual as well as Temporal; but no Commissioners can be authorized by the Crown to proceed in any Commission under the Great Secre or otherwise, but according to Law; in Spiritual Causes by the Canon Law, in Temporal, by the other Laws and Statutes of the Land. And wherein the Proceedings in some Conferences are directed to be jenninére & de place, &c., those Words are to be applied to thoren the Forms of Proceed, and not for Matter of Judgment: For Magna Charta provides for our Spiritual Liberties, as well as our Temporal.
for not admitting Alban Francis to a Degree.

An Account of the Visitation of St. Mary-Magdalen College in Oxon.

On October 19, Mr. Atterbury, the King's Messenger, fixed a Citation on the College and Chapel-Doors, requiring the pretended President and Fellows, and other Members of the College, to appear before the Lords Commissioners, Bishop of Chester, Lord Chief Justice Wright, and Mr. Baron Jenner, in the Chapel, at Nine of the Clock on Friday Morning, November 12.

On Thursday the Lords Commissioners came to Oxon attended with three Troops of Horse, which quarter there.

On Friday Morning at Nine they went into the Chapel: The President and Fellows thinking they had defied it in the Choir, made no Preparation of Seats in the outward Chapel: Upon which their Lordships adjourned to the Hall, where their Communion was then read, which in general, was the same with the former: Three being added to the other Lords Commissioners, and particularly impelled to visit Magdalen College only.

This done, the Names of the President and Fellows were called over, Dr. Hough being first called. All in Town appeared (except Dr. Fairfax) and Execution was made for the absent.

Then a Speech was made by the Bishop of Chester, and in it his Lordship was severe against Dishonesty and Dishonesty. He urg'd, that the Church of England taught an unconditional and unlimited Obedience: He spoke of the King's gracious Promise to Archbishops and Bishops, etc. which had deferred Thanks on bended Knees, notwithstanding the Oxon. Resolutions to the contrary, which they knew well who was the Author thereof. He told them, that it could not be expected, but that the King would give all Encouragement to those of his own Religion, which could be done without Severity and Cruelty, which his Majesty abhorred, and without injuring the Church of England, which was at present established by Law: He told them, that this Corporation, as well as others, were the Creatures of the Crown; and that it was Infolence in their local Statutes to spurn against their Maker.

That their Distempers had brought this Visitation upon them, the Consequences of which might be ill to the Church and Universities: That however they might despise this World, these Sins were to be accounted for above their other Sins in the next. He exhorted them by the Bowels of Christ to consider these Things: He told them, that the Eyes of the World were upon them, and they ought to take Care that their Praclices might not influence their deluded Admirers. In short, the whole Design of the Speech seemed to be Promises and Threats, to aim at the inducing them to a Compliance.

The Court was then adjourned till Two in the Afternoon.

In the Afternoon were called over the Names of the Deniers, Chaplains, Clerks, Chaplains, and College Servants. The President then interpolated, desiring Leave to finish before they proceeded any further, which being granted, he told their Lordships, That,

Prefects.

T HE Time betwixt your Citation and Appearance was so short, that the Society had not Time to advise with Coun-

fel how to behave themselves on this Occasion; therefore defined of your Lordships a Copy of the Communion, and Time to consider of it.

Bijb. Chester. 'Tis upon Record; you may have it above.

Prof. Is it the same the other Lords Commissioners had?

Bijb. Ch. Yes, for the most Part it is.

Prof. Then, my Lord, I do assure you (and will make Oath, if you please) that I have often endeavoured to get a Copy of it, and could not procure it.

L. C. J. Have you not heard it, or will you hear it again?

Prof. I am not capable of making a Judgment of it myself; but it is possible there may be Errors and Defects in it, such as the Society may make use of to their own Advantage; and I am confident, it is neither his Majesty's Intention, nor your Lordship's, we should be deluded from it.

A Copy was then desired.

Bijb. Ch. Dr. Hough, will you submit to this Visitation?

Prof. My Lords, I do declare here in the Name of myself, and the greater Part of the Fellows, that we submit to the Visitation, as far as it is consistent with the Laws of the Land, and the Statutes of the College, and no further. I define your Lordships that it may be recorded.

This was twice repeated.

L. C. J. You cannot imagine that we act contrary to the Laws of the Land; and as to the Statutes, the King has dispensed with them: Do you think we come here to act against Laws?

Prof. It does not become me, my Lords, to say so; but I will be plain with your Lordships, I find that your Communion gives you Authority to change and alter the Statutes, and make new ones as you think fit: Now, my Lords, we have an Oath, not only to observe those Statutes [saying his Hand on the Book] but to admit of no new ones, or Alterations in these: This must be my Behaviour here; I must admit of no Alteration from it, and by the Grace of God never will.

Bijb. Ch. Do you observe all these Statutes?

Prof. Yes, my Lord, I hope we do.

Bijb. Ch. You have a Statute there for Mafs, why don't you read Mafs?

Prof. My Lord, the Matter of this Oath is unlawful; and in such a Case no Man is obliged to observe it. Before, the Statute is taken away by the Laws of the Land.

Bijb. Ch. By what Law?

Dr. Stafford. By that which obliges to say Common-Prayer.

Bijb. Ch. What, the Act of Uniformity? I have often considered it, and don't remember one Word of Mafs in it.

Dr. Stafford. But that obliges us to use the Liturgy of the Church of England in all Collegiate Churches and Chapels. And, I hope, my Lords, you do not imagine that we can say Common-Prayer and Mafs together.

Bijb. Ch. Do you allow that Act of Parliament can free you from the Obligation of a Statute?

Prof. I do not say but that his Majesty may alter our Statutes, nor do I know but a Parliament may do the same; I disperse not their Power; only this, My Lord, I say, that I, who already have
have taken an Oath to oblige their Statutes as they now stand, and am foon to admit to any Change or Alteration by any Authority whatsoever; and then turning to the Oath, where they were to oblige those Statutes and no other, according to the Literal and Grammatical Sense, &c. and reading it to their Lordships) can obey none: But then those who come after such Limitations and Restrictions are made, are not oblied to oblige them; and that, my Lords, is our Cafe, as to the Statutes of the Mafs.

Then the Decree of the 22d of June was read, declaring the President's Election null and void.

Bibh. Ch. Did you know of this Commit- on, &c.?

Pref. Yes, my Lord, I have heard of it.

Bibh. Ch. Why then did you not oblige it?

Pref. I was never cited before your Lordships, nor was any either heard by them in Person or Proxy; and I think I am the only Inflance that is extant, of any Man that was ever deprived of a Freethold, wherein he was legally invested, and of which he was quietly posseffed, without being summoned or heard.

Here Mention was made of Dr. Fairfax's Suf- fention.

Pref. My Lord, he is absent, and if your Lordships give me leave, I have somewhat to lay on his Account; your Lordships may please to ob- serve, in that Decree, that the Reason given why Dr. Fairfax was suffended from his Fellowship, was, because he had not obeyed his Majesty's Command, in not electing Mr. Anthony Farmer President of the College, the Charge of Immorality given in against Mr. Farmer by the College-Delegates was made out, and their Lordships fully satisfied in it, on the 25th of July; notwithstanding which, this Decree for Suffention of Dr. Fairfax was fixed on the College-Gates, August 14.

Bibh. Ch. The King hath for the most part recommended to the Presidentship of this Col- lege.

Pref. I am the twentieth President, and only four of that Number have been recommended by the Kings and Queens of England, whereas there were every way qualified for that Office.

Bibh. Ch. Who were those?

Pref. My Lord, there was one in the Time of Edward VI, one in Queen Elizabeth's, and two in the late King's Reign.

Bibh. Ch. Was there never a one in King Charles the First's Reign?

Pref. Not that we know of.

Bibh. Ch. What think you of Dr. Oliver?

Pref. It doth not appear to us, my Lord, that he ever had a Mandate.

Bibh. Ch. But it appears to us, and that I will bring you one for that, that he had a Mandate.

Pref. The Truth is, we have left the Register of Dr. Oliver's Election and Admission; the Re- gister being the Year 1610, or thereabouts, and fancy, being taken away by those who were turned out of the College at that Time; but I believe, my Lord, we are able to prove that he was elect- ed and admitted according to the Statute.

Bibh. Ch. Was Dr. Clark a Statutable Perfon?

Pref. Yes, my Lord.

Bibh. Ch. Do not the Statutes require that he should be in Orders? Was he in Orders?

Pref. My Lord, the Statutes only require that he should be Doctor of Divinity, Physick, Law, or Master of Arts. There is indeed one Statue, which says, The President or Senior-Fellow should read Prayers upon such certain Days; from whence we conclude, that the Founder supposed we might have a President that might not be in Orders; and in such a Cafe he takes Care that the Senior-Fellow should do his Duty.

Mr. Chur. My Lord, will you be pleased to ask Dr. Hawe, whether Dr. Clark was married, or not?

Pref. No, Sir, he was a Widower.

Then a Petition was read from the Society to his Majesty, signed the 9th of April, and presented the 10th to the Earl of Sunderland, by the Hands of Dr. Thomas Smith, and Captain Baylock, wherein was set forth, that having heard that his Ma- jesty would recommend Mr. Farmer to them, a Perfon unacceptable, they did humbly beseech him, either to leave them to a free Election, or to re- commend a qualified Perfon.

Bibh. Ch. Was this the Petition?

Ans. Yes.

Bibh. Ch. Why then did you not play for his Majesty's Anwer?

Pref. My Lord, We did till the very last Day wherein we are limited to finish the Election; and my Lord Sunderland returned in the King's Name this Anwer, That his Majesty expected to be obeyed. Now, my Lord, we did no longer de- fer the Election, because our Statutes enjoin us within such a Time, and we fled to the utmost: Nor could we choose the Perfon his Majesty did recommend, knowing him to be so unfit, as we afterwards made him appear to be. The Society was therefore to proceed to the Election of another Perfon, and did agree on such as you see.

Bibh. Ch. A Mandate always implies an Inhibi- tion.

Pref. My Lord, I cannot conceive that.

Bibh. Ch. But I can; and if you question it, here's the King's Council ready to argue it.

Pref. My Lord, whilist the Perfon his Maj- esty recommends appears duly qualified for the Place, it seems indeed to imply that we should not proceed to the Election of another; but when he is known to be utterly unacceptable, it seems to be the same as if there were no Letter at all.

Some other Things and Questions left material were put, and then the Court was adjourned to Saturday the 22d, at Nine in the Morning, to the Common Room, the Hall being, as they said, too publick and incommodious.

Saturday, October 22, 1687.

As soon as their Lordships met in the Common Room, and the Society before them, the first Word was, Wildeness; and after a little Time, the President was called in alone.

Bibh. Ch. D O you submit to the Decree of the Commissioners, whereby the Elec- tion is declared Null?

Pref. As to that Decree of the Lords above, it is a Nullity in it self from the Beginning to the End, as it relates to me, I never having been ci- tized, nor having ever appeared before them, either in Person or Proxy. Besides, my Cause itself was never before them; their Lordships never enquiring or asking one Question concerning the Legality or
or Statutenef of my Election; for which Reasons (as I am informed) that Decree was of no Validity against me, according to Methods in the Civil Law: But if it were, I am possessed of a Freedom, according to the Laws of England, and the Statutes of the Society, having been elected unanimously, and with as much Formality as any one of my Predecessors, Presidents of this College, and afterwards admitted by the Lord Bishop of Winchester, our Visitor, as the Statutes of the College require; and therefore I cannot submit to that Sentence, because I think I cannot be deprived of my Freedom, but by Course of Law in Writmunifter-Hal, or by being some ways incapacitated by the Founder's Statutes.

Bib. Ch. Will you deliver up the Keys of the President's Office, and Lodgings, to the Use of that Perfon whom the King has appointed your President, as the Statutes require?

Prof. I will immediately do it, if that appears.

Bib. Ch. Turn to that Part of the President's Oath, where he promising to submit quietly if he shall be expelled, either for his own Fault, vel ab aliis Caufa.

Prof. My Lord, that Statute only concerns me, if I am expelled for any Fault committed by me.

Bib. Ch. Vel ab aliis Caufa?

Prof. Then, my Lord, to be short, here is no Caufe at all.

Bib. Ch. I ask you again. Will you deliver up the Keys to the President whom his Majesty hath appointed?

Prof. There neither is, nor can be a President so long as I live, and obey the Statutes of the College; and therefore I do not think fit to give up my Right, the Keys and Lodgings.

Bib. Ch. We may demand them of you as Visitors.

Prof. My Lords, we never deliver up the Keys to the Bishop of Winchester; and we own no greater Visitatorial Power than his; he hath the King's Authority. 'Tis by Virtue of a Royal Charter that we live together, and enjoy the Benefit of this Place, that empowered our Founder to give us a Rule, and charged us by Oath to act faithfully under it. And the Bishop of Winchester is hereby constituted to be our Visitor; and all this we own from the King's Authority. The Bishop of Winchester is our ordinary Visitor; the King (I presume) our extraordinary. But your Lordships know it hath been controverted, whether the King can visit a private College or not. The Authority of the President is made by delivering up the Statutes-Book, and Keys; and therefore I look upon them as an essential right of my Office.

But I humbly beg that I may ask your Lordship or Question.

Your Lordship is pleased to demand of me to give up those Things: Does your Lordship own my Right? For if not, What is it your Lordships would have me give up?

Bib. Ch. No, we look upon you as an Intruder.

Prof. If I am an Intruder, the Bishop of Winchester made me one; and I thank God for it. My Lords, the Time we have been allowed for this Appearance, has been very short; but one Day between us and the Citation. We are Men ignorant in the Law, and I must confess it of my self in particular, that I have endeavoured to give your Lordships a plain satisfactory Reply to such Questions as your Lordships have been pleased to put to me. It is very probable, that through Ignorance and Inadverternce, I may express myself unwarily. If so, I beseech your Lordship let no Advantage be taken of it; my Intention has been always to express myself with all imaginable Duty to the King, and Respect to your Lordships. If I have done otherwise, I beseech your Lordships' Candour in a Favourable Interpretation of what I said, that nothing may be taken amiss, where all was dutifully intended. And now, my Lords, thus far have I appeared before you as Judges; I now address to you as Men of Honour, and Gentlemen: I beseech you to represent me as dutiful to his Majesty to the last Degree, as I always will be, so far as my Confidence permits me, to the last Moment of my Life; and when I am disregarded here, I hope your Lordships will intercede; that I may no longer lie under his Majesty's Displeasure, or be found unhand by my Prince, which is the greatest Affliction can befall me.

Upon this the President was ordered to withdraw, and after a little Time, he and the Visitors were called in again. Thus the Bishop repeated this Question.

Bib. Ch. Dr. Hough, Will you deliver up the Keys, and quiet Possession of the Lodgings, to the Person whom his Majesty has appointed President? [To which no Answer was returned.] The Bishop repeated a second Time.

Prof. My Lords, I have neither seen nor heard any thing to induce me to it.

Bib. Ch. Dr. Hough, Will you deliver up the Keys, and quiet Possession of the Lodgings, to the Person whom his Majesty has appointed President?

Whereupon the King's Professor fixed up and assured Dr. Hough of Continuance. Thus the Bishop of Chester advertised him in these Words, three Times.

Bib. Ch. Dr. Hough, I admonish you to depurate peaceably out of the Lodgings, and to act no longer as President, or pretended President of this College.

Which being so done, they struck his Name out of the Book, and advertised the Fellows, and others of the Society, that they should no longer submit to his Authority.

Saturday, October 22, 1697.

O X O N.

Dr. Fairfax's Cafe before the Commissioners.

At the first Sessions Dr. Fairfax purposely abstained himself; but Mr. Atterbury making Application he was in Town, and that he advent him to appear, the Doctor accordingly did so the next Day. The Doctor being called in alone, and the Doors immediately shut, he begged of their Lordships some Company might be let in, because, as all had observed, the Bishop in his Speech, at the opening their Communion, promised to transact every thing in the Face of the World. The Bishop complained of the Crowd. The Doctor then desired to fetch in both two or three, at length but one, and him at the Door, viz. the College-Seward, a Publick Notary.

Ban Ton. You must not think to prehend to the Court.

Bib.
Bish. Ch. What's the Cause of your Contempt, in not appearing at either Seissons Yesterday?  
Dr. Fairf. No Contempt, my Lord, but for these ensuing Reasons. First, I thought my Suf- fposition above had caused me of that Trouble. [The Doctor reading a Copy of it, which was read by the Commissioners.] The Doctor inlisted very much on the Reasons their Lordships at White- Hall gave for this Sufferance; viz. for not obeying his Majesty in electing Mr. Farmor, he tendering a Copy of Articles made good against him; and yet their Lordships ordered his Suffer- ance to be fixed on the College-Gates five Days after that famous Hearing. Second Reason for his Non- appearance, That upon the fifth Day of the ex- piring Term, he intended to meet the Lord Chief- Justice at his Court of King's-Bench, for Relief against the Sentence, his Fellowship being a Free- hold, witness Coveney's Cafe.  
Bish. Ch. You will find but little Favour there.  
Dr. Fairf. My Lord, in Courts of Judicature, I only expect Justice [and turning to the Lord Chief Justice] I have my fill, said he, been above four Years in all the Courts of W怦iorphio-Hall, and found excellent Justice, and I will see how it is now.  
L. C. J. You shall have Justice.  
Dr. Fairf. But your Lordship may give me the Labour of two Journeys and my Charges, by improving your Lordship's deferred Interest with my Lords Commissioners there, and get them now to take off my Sufferance: It is ill travelling at this time of Year; and besides I am not rich.  
Bar. Ten. To see in W怦iorphio-Hall requires a Purle.  
Dr. Fairf. My Lord, I did not say I was poor.  
L. C. J. You must make your Supplication and Submissions to the King.  
Dr. Fairf. My Lord, they tell me, that this Balliffs lies in your Lordship's Court, and only there (besides the Trouble I am otherwise to give your Lordship) what a Noise will the Caufe make that Dr. Fairfax is suspended for this very Reason? viz. not obeying the King, in electing Anthony Farmor, such a Virtuoso and under Correction, your Lordships are obliged to take off my Sufferance, to take off the Shame from that Body, whose Number, by a common Adjunct you your selves have lately increafed.  
Bar. Ten. We must not endure these Reflections on the Court.  
Bish. Ch. But will you admit to this Visitation?  
Then Dr. Fairfax read a Paper, subscribed by him, dated October the 22d, in these Words: 'My Lords, I have been summoned, and appear- ed at the Court before the Lords Ecclipsical at White-Hall, and therein your Lordships are now joined in Cawnification, and there gave in my Answer: I have nothing to add to it, and find no Rejoice to retrieved it.'  
HENRY FAIRFAX.

Bish. Ch. Will you admit of the Bishop of Oxford?  
Dr. Fairf. I am suspended.  
Bish. Ch. Have you done no Collegiate Act since your Sufferance?  
Dr. Fairf. My Lord, I have gone into the Halle, and laid in my Chamber: I did not think their Lordships, when they suspended me, ever intended that I should not eat, drink, or sleep.

Bish. Ch. If your Sufferance was off, would you submit the Bishop of Oxford?  
Dr. Fairf. Truth be told, I cannot do it.  
Then all the Fellows were called into Court.  
The President being withdrawn, the Bishop put the Question to all the Fellows; viz. Whether they would assent at the Admission of the Bishop of Oxford to be installed President, by Vic- tue of the King's Mandate? To which was an- swered by all the Fellows, to this Effect (except Dr. Peirsey, and Dr. Thomas Swill, who an- swered doubtfully, and Charrnec, that he would assent) That they were under Oaths to the coun- try, and therefore could not do it.

Then all were ordered to withdraw; and Dr. Pui- ley being called to alow, they asked him concern- ing the Manor and Form of Installing a Presi- dent; which he informed them in.

The Court adjourn'd till two in the afternoon.

AS soon as they met, a Letter from the Earl of Sunderland to Dr. Peirsey, was read, dated the 2d of August, signifying, that the So- ciety in Anfwer to his Majesty's Letter, comman- ding them to admit the Bishop of Oxford, agreed transmissively in this Anfwer, That the Place was full. Their Lordships were pleased to ask the Fellows singly, whether that was their Anfwer? And as many as were there, owned that it was.

During this Examinition, the President came into Court, and having waited until it was ended, and their Lordships, at a Pause, he made his Ap- plication to them: 'My Lords, if your Lord- ships pleafe to give me leave, I would gladly speak a few Words.' They were all pleased to put off their Hats, and fay he might. Where- upon he faid, 'My Lords, you were pleased this Morning, in Pursuance to a Decree of the Lords Commissioners at Lounds, to deprive me of my Place of President of this College, and to strike my Name out of the Bottery-book: I do hereby protest against all your Proceedings, and against all that you have done, or here- after shall do, in Prejudice of me and my Right, as illegal, unjust, and null; and there- fore I appeal to my Sovereign Lord the King, in his Courts of Justice.' Upon which, the Synngers and young Scholars in the Room gave a Han, which to much incidenced their Lordships, that notwithstanding all the Proceedings the President and Fellows could make, the President in particular offering to purge himself by Oath, that he was no way accessory to, or abetting of it, and declared that he was heartily ashamed and troubled at it; yet the Lord Chief Justice was not to be pacified, but charging it upon the President, bound him in a Bond of 1000l, and Security to the like Value, to make his Appearance, at the King's-bench Bar, the 12th of November. At the time afore Baron Jenner took Occasion to put to the President (Hugh's) Name, saying to him, Sir, you must not think to buff us.

After this, was read the Anfwer the Fellows returned to his Majesty upon his Command to them, upon the 4th of September, to elect the Bishop of Oxford: The Anfwer was under the Hand of a Publick Notary, subscribed by all the Fel- lows then present, except Mr. Charrnec. The Bishop of Chelfer was pleased to charge the Fel- lows
1687.

for not Electing Anthony Farmer President.

lows of Unmannerslieved, for finding such an An-
swer to their Prince after such a Manner.

So they adjourn'd till Tuesday the 25th, at Eight
in the Morning.

Tuesday, October the 25th, 1687.

When the Court met, Dr. Stafford offered
a Paper in Answer to what was objected on
Friday, that a Mandate implied an Injunction;
which their Lordships having perused, would not
suffer to be read publicly, but asked the Fellows
whether they would sign it, bidding them to do it
at their Peril.

Then the Fellows had Leave to withdraw into
the Hall, and not being satisfied that it was neces-
sary to sign a Plea, which their Lordships refused
to have argued, they returned the Paper into the
Court, subscribed only by Dr. Fairfax and Dr. Sta-
ford. The latter, after some Debate, desired to
withdraw, but Dr. Fairfax Rood to it.

A Copy of Dr. Stafford's and Dr. Fairfax's
Plea.

To the Right Reverend and Right Honourable his
Majesty's Commissioners for the Visiting St. Mary-
Magdalen-College in Oxon.

May it please your Lordships,

On Friday last in the Afternoon you seem'd
to insist very much on this viz. That his Majesty in commanding the Fellows of the said College to elect Mr. Farmer President, did there-
by inhibit them to elect any other Person what-
soever; which has not yet been made appear to
be Law, either out of the Books of Civil, Canon
or Common Law: Neither is it agreeable to Rea-
son, that a Command to elect a Person incapable,
should include in it an Obligation not to elect a
Person capable, that being a kind of Contradiction
in本身就. Yet this being granted, it cannot in
the least affect the said Fellows, or invalidate their
Election of Dr. Hoag, notwithstanding his His-
 Majesty's Mandate in Behalf of Mr. Farmer, who
being incapable of the Place, the Fellows cannot be
said to be guilty of any Disobedience or Difloyalty,
in proceeding to the Election of another Person
who was qualified according to the Statute, being
forced to make an Election. For they are obliged
by the Statutes of their College (when call'd to-
together) to elect a President, or any Officer, under
Pain of perpetual Expulsion from the College, to
meet and make an Election; which Punishment
they incurred, if they call'd, or being met, to nomi-
nate or elect a Person into the Office were not
withstanding his Majesty's Mandate of the said
College: Titulo di numero Scholarum et
eliectioni Presidentis. Now according to the Foun-
der's Direction in the said Statute, on the 15th
of April last, the Fellows were called together by
the Vice-President to elect a President in the Place
of Dr. Clark deceased, and the Oath defair to be
taken before the Election was administered by
the Vice-President to them, whereby they are obli-
g'd to nominate and elect a Person that either
is, or has been Fellow of Magdalen-College, or
New-College in Oxon. Which Oath, when the
Fellows had taken it, was not in their Power to
elect Mr. Farmer; and yet they were then obli-
g'd to make an Election, under Pain of per-

THOMAS STAFFORD,
HEN. FAIRFAX.

After this, Mr. Wiggins, Chaplin to the Bishop of
Oxford, was called in, who delivered a Paper,
impeaching him, as Proxy, to be infallible Presi-
dent for his Lord; which being read, together
with the King's Mandate for the Bishop of Oxon,
the Question was put to two or three of the Se-
niors. Whether they would affix at this Inhali-
ment? Which they refusing, the Court adjourn-
ed to the Chapel, where the Bishop of Cloyer
put Mr. Wiggins into the President's Stall, where
he took the Oath which the Statutes enjoin the
President at his Admission, and the Oaths of Alle-
giance and Supremacy; the latter of which he was
ordered to tak'en in his Knees, which he accord-
ingly did. Then their Lordships commanded him
to the Door of the President's Lodgings, where
knocking three times, and the Door not being
opened, they returned to the common Room,
and commission'd Atterbury, and a Tippath,
to fetch a Smith to force it open; which was done,
their Lordships being present all this while: None
of the Fellows, except Mr. Chaw seed, afflicting,
or being so much as present at either of their Per-
formances. Then the Commissioners being returned
to the common Room, Dr. Fairfax desired Leave,
at their Leisures, to speak; which was granted.

Mr. Dr. Fairfax.
Procezings against Magdalen-Colleze, Oxon. 3 Jac II.

Dr. Fair. My Lordes, your Lordshippes have been doing of what I can by no means content to.

Bilbo. Ch. You are big to be delivered of your own Detraction. Will you submit to the Bishopp of Oxon, as now Infallible President, by Virtue of the King's Mandate?

Dr. Fair. I will not; I cannot, because we have a Statutable and Legal President already.

Then the same Question was put to the Society, which being a Bullneck of Moment, they defired Time till the Afternoon to consider it.

Then the Court adjourned till Three o'Clock; at which Time the Anfwer was given in by the Society (except Dr. Fairfax, who had given his in the Morning) That whereas his Majesty hath been pleased, by his Royal Authority, to create the Right Reverend Father in God Samuel Bishop of Oxon, to be Infallible President, we whose Names are herein further set, do submit, as far as is lawful and agreeable to the Statutes of the College, and no way prejudicial to the Right and Title of Dr. Hough.

This Anfwer was accepted, except the last Chaufe, which the Lord Chief Justice, and Baron Jenner declared, as Judges, to be insignificant, since nothing they could do, could any way invalidate Dr. Hough's Title; but let them fill at Liberty to be Witnesses for him, or any other way be serviceable to him in the Recovery of his Right. Upon this Affair, the Society was prevailed with to leave out the last Chaufe.

Then all were commanded to withdraw: And Dr. Fairfax being called in, the Bishopp asked him what he meant by his Paper above-mentioned, dated October the 22d, and whether he did submit to the Authority of the Court?

Dr. Fairfax. As I have denied it above, so I do here.

Then the Court was opened, and the Doctor complained before them all, that he was twice censured; and being asked, Whether he would obey the Court, and Bishop of Oxen? he plainly denied both. Upon which the Committee was called for, and the Bishop of Clifton command'd his Name to be struck out, and this Sentence passed; viz.

Mr. Sheriffs as you have denied the Authority of the Court, and refused to obey the Bishop of Oxen, whom the King both made your President, and taken Canons after your Suspension; We declare your Place void, and command you quietly to depart the College within fourteen Days.

Dr. Fair. My Lords, all the huge Calamities that havebefallen me, are on the sole Account of a religious and conscientious Obserbation of our pious Founder's Statutes, whose Bread I have eaten almost these thirty Years.

L. C. F. No Speeches: Besides, if you have any Papers, instead of reading them, leave them in the Court.

Then, with much ado, the Doctor prevailed with them to let him read his Protestation, which he left in the Court.

Henry Fairfax, Fellow of St. Mary-Magdalen-Colleze, do under my former Anfwer herebefore made, and to the Intent it may appear that I have not countenanced, nor agreed to any thing done against me, and to my Prejudice, I prove that your Suntace given here against me is Lax nulla, and so far as it may appear to be aliquis; I do it is iniquus & injusla, and that therefore I do frown it, at iniquus & injusta, appeal to our Sovereign Lord the King, in his Court of Justice, as the Laws, Statutes and Ordinances of the Land will permit in that Behalf.

Subscribed,

October 25th, 1687.

Henry Fairfax.

This Protestation was over-ruled, and a Copy of the Sentence denied, though most earnestly desired at the Influence of Dr. Heddes, and Mr. Vice-Chancellor, two Days after.

At the Close of the Sessions, their Lordshippes declared, that they were very well satisfied with the Anfwer the Society had given them; and though before they had had a License to their Charge, yet that Night they declared, they had met with nothing from them but Civility, and that they should receive the fame from them; that, they had shown themselves Men of excellent Tempers this Day and before; and that they would re-premit it faithfully Above to their Advantage, and that if any way by their Power to serve them, they should be very ready to do it.

Then they adjourned till Wednesday Morning, ordering them to bring in their Anfwer to the following Questions.

1. What Gifts and Provisions have you for Entertainment of Strangers?
2. What is the Value of it?
3. Here is it applied?
4. And where is the Place of Entertainment?

Wednesday, October 26th, 1687.

T N the Morning they made it appear to their Lordshippes very satisfactorily, that they were obliged to give in Charity-Money, 1, 2, 3, 4, and that besides that, they gave, communions annum, almost 100 l. as appeared by a Paper they then delivered in. Upon this their Lordshippes were pleased to expatiate upon their generous Bounty and Liberality, saying the Complaint of this Account was groundless, and that it would induce the King to a better Belief of them in all other Matters.

Then a Petition of Dr. Rogers, late Organist, was given in, desiring to be restored, which was read; but several Middlemenors being proved against him, it was thrown out, and he advised to rest satisfied with 30 l. per Annum, which the College had beswore on him, when they turn'd him out of his Place.

Thursday, October 27th, 1687.

T HIS Morning they received a Lill of Leaves, &c. which had been renew'd two Years last past. Mr. Charnock, the new Convict, affected their Lordshippes, whether those Leaves floot good, which had been fated since Dr. Hough's Election? The Lord Chief Justice anfwered, Yes; for Corporations always fick by their Seats. Then their Lordshippes perused the College-Registers, and finding nothing in them to object against, they were returned, and the Court adjourned till the Afternoon. At which Time their Lordshippes told them, that having received no Express from Above, as they
they expected, they would adjourn till Friday at Eight in the Morning.

FRIDAY, October 28th, 1687.

THE Commissioners being seated, all were commanded to withdraw: Then only the Fellows were called in, and the Bishop of Chester said, that he had represented them fairly to the King, but his Majesty expected some farther Submission, which they advised them to make, by acknowledging their Contempt to his sacred Majesty in Persia, and to his Letters; and that they should promise to behave themselves Loyal for the future; and that they should some Ways own the Proceeding and Legality of the Court, and implore his Majesty's Pardon, and lay themselves at his Feet.

The Fellows making a little Pause, the Bishop of Chester told them, they might Word it themselves; or, if they thought fit, Mr. Tucker should affix it in a Form. Then all the Fellows withdrew into the Hall, and drew up the following Answr.

May it please your Lordships,

We have endeavored in all our Actions, to exceed none in all Humility to his Majesty, and being conscious to our selves, that in the said Council in the Bushriff before your Lordships, we have done nothing but what your Oaths and Statutes indispensably obliged us to; we cannot make any Declaration, whereby we acknowledge that we have done any thing amiss, having acted according to the Principles of Loyalty and Obedience, so far as we could, without doing Violence to our Concerns, or Prejudice to our Rights (one of which we humbly conceive the Electing a Prefident to be) from which we are sworn upon no Account substitute to depart. We therefore humbly beg your Lordships to receive this favourably, with all our due Duty to his Majesty, whom God grant long and happily to reign.

Upon their Lordships perusing of the Answr, they expressed their Dilicite of it, saying, It did not come up to the Address sent to his Majesty at Bath, which was read. To this it was replied, That they hoped their Behaviour since had been every way answerable to what they had therein premised. Then their Lordships said, That it did not come up to what they delivered in on Tuesday.

Mr. Busby. My Lords, we have acted conformable to ourselves; and truly, my Lords, I cannot possibly confess any Crime.

Bish. Ch. We do not expect of you to confess any capital Crime, only to make some acknowledgment.

Mr. Fullham. My Lord, we were ordered to address ourselves, as having acted in Contempt of his Majesty's Authority, which, my Lord, I look upon as so great a Crime, that on no Account I would be guilty of it. My Lord, we have endeavored to obey his Majesty to the utmost of our Power, and seeing your Lordships were pleased to accept our Answr on Tuesday, I humbly conceive your Lordship's Honour is engaged, it nothing further be required of us.

Bish. Ch. You are a very forward Speaker, and abound in your own Sense.

Mr. Fulh. My Lord, I hope your Lordship will give me leave to speak, when our Fortunes are so creditably at Stake.

Then Dr. Bayly defined of their Lordships to give him Leave to explain what he meant by the Word PREFIDENT, in his Answr on Tuesday; because (he said) I hear your Lordships understood more than was meant, and least your Lordships should go away under a Mithake, by the Word Prefident, in the former Answr, I did not intend any future Obedience to the Bishop of Oxford; but meant it in Reference to the King's Authority, insomuch as I did not oppose or refit the Bishop of Oxford's Infallment.

Upon this, a fresh Question was put to the Fellows, Whether they would obey the Bishop of Oxford, as their President, in his Oaths & benefits? To which all, except one or two, answered, They could not obey the Bishop of Oxford as their President.

Then Mr. Fulham was particularly asked the Question.

Mr. Fulh. Dr. Hough being duly elected and admitted President, doth thereby obtain a Right, which I am not satisfied he hath any Way forfeited, and therefore can obey no other Person as President.

Bish. Ch. Will you obey the Bishop of Oxford as in Peffition?

Mr. Fulh. I cannot, because the Bishop hath not lawful Peffition.

Then he was asked, wherein?

Mr. Fulh. He had not Peffition in the Form of Law, nor by proper Officers. I am informed that the proper Officers to give Peffition of a Freehold, is the Sheriff with the best Lawyer, you or I? Your Oxford Law is no better than your Oxford Divinity. If you have a Mind to a Peffion Cumtus, you may have one soon enough.

Mr. Fulh. My Lords, I intend nothing but Respect to your Lordships, and have endeavoured to speak and behave my self with due Reverence; and I hope your Lordships will put a favourable Construction on what I said.

Then all were commanded to withdraw, and the Buttery-Book was called for, and after that, Mr. Fullham was sent for in; and by the Bishop of Chester fulfounded as followeth.

Bish. Ch. Mr. George Fullham, We have thought fit to suspend you from the Profits of your Fellowship during his Majesty's Pleasure, for your Contempt and precautions.

Then they adjourned till Wednesday the 16th of November, ordering the absent Fellows to be sent for Home against that Time. So they immediately went for London.

WEDNESDAY, November 16th, 1687. at Nine in the Morning.

TH E Lords Commissioners being fat, the first Thing they did, sent for the Buttery-Book; then called for Mr. Jeffer and Mr. Allsone, and entered them actual Fellows: The former in the Room of Dr. Fairfax, whom they had expelled; the latter in Place of Mr. Lasford, lately deceased: All Oaths being dispenc'd with, besides that of a Fellow. That done, the Fellows being called, and the Reafons given in for those that were absent, the Bishop of Chester spoke a Speech to this Effect.

N n 2 • Gen.-
Gentlemen,

Your many Cautums and wise Dispositions have occasioned this Visitaton, which will end at last in your Ruin. This Society of yours has been long exercised in the Methods of Quarrrolling; and has always been troubled with foolish Spirits, and ties Mutinies, ever since the Restoraqion of the late King: You have encouraged Quarrels among your Servants; Quarrels between yourselves and Preceptors; Quarrels, at length, between yourselves and Visitor. For to have often heard your late Visitor complain, that this Society was ever fuddled with an unquiet Spirit, and turbulent Generation. For to have seen many Quarrelling and Quarrelling on, in the Preceptors and Visitor, you have at last advanced to the highest Pitch of Iniquity, to quarrel with your Prince, and afflict his Sacred Majesty. I endeavoured before, at the Opening our Commissioq, to make you feelible of the Scandal that your Disobedience will bring upon your Religion; how much you Sin and Disfigure your liberal and ingenious Education in this Society.

You cannot but know his Majesty is your supream Ordinary. You cannot but know he reads in Bradton, who was twenty Years Lord Chief Justice under King Henry III. Nemo presume de ledeis ejus diquierere, in deum contra faciunt ejus venire. A Disobedience equal to Pride, and a Malignity of his Government, but he knows that himself suffers. The Reputation and Honour of a Prince at home, and his Respect abroad, are chief Standards of a Government. But these Pillars, as much as I will tell you, you have endeavoured to shake. And unless his Majesty's Honour and Right be vindicated by us, He can neither be feared or have his affairs abroad. Your Punishment will be as public as your Crime. It cannot be concealed but his Majesty, in Justice, in Honour, in Clemency, and in his Royal Tenderness, could have proceeded according to what you have done. On the 5th of April it was published that Dr. Clark was dead: On the 8th a Mandamus was directed to you, for charging Mr. Farmer. On the Ninth you professed a Petition to the Lord President, wherein you laid yourselfes prostrate at his Majesty's Feet, reprefenting to him the Iniquity of Mr. Cary, defiring the Benefits of his gracious Declaration for preserving your Rights and Preterities, and beseeching him to nominate another Person qualified according to your Statutes, in the Election of whom you would shew your ready Obedience. So said and so done, Gentlemen, had been very well.

But immediately after the Delivery of the Petition, you, not contenting his Majesty's Affections, proceeded on April the 10th to an Election of Dr. Hough: So the Act of this Session, which was wholly contrary to his Majesty's Authority, subjcete Mandate did certainly imply an Injunction, you directly confronted your former Prerogative of ready Obedience, and were refused to give the King noth but good Words: When you bed done this, as Men of ill Deeds are always in hopes, for a Confirmation of it, you immediately went and surprized your Visitor, and by that means persaimed him to confirm Dr. Hough, that very Day he received an Order from the Lord President to the contrary.

Upon this News the King was much amazed, and required an Account of your Proceedings, whereupon the Visitor, who had sworn an Oath to Mr. Hough, signed out a Letter to him, and after hearing the Pleas, upon mature Conafferation with the Learning of both Laws, judged the pretended Election of Dr. Hough to be void and null, and him to be removed, by an Instrumnt dated the...
On Tuesday we our selves caused the Bishop of Oxon to be infall by his Preux, after which we professed to you, whether being once infall, you would submit to him in litictis & honestis? To which you gave an answer under your Hands in the Affirmative. Then you also defined to us to represent your Case fa-
curably to his Majesty, giving all Affirmance of your Loyalty and Obedience. But this Affirmance of Sub-
misson lasted not long; for on Thursday, being re-
quired of us to subscribe such a Submissio to his Ma-
jury as we thought agreeable to our Duty, you re-
quired Time to consult of it; and after Deliberation,
signed such a Paper, which signed rather to be a Pro-
testation against your former Submissio, than an Ac-
knowledge of your Error. Upon this we might justly then have proceeded to an Exsposition: But we thought fit, in Campbell to you, to take a Journey to London, and acquaint his Majesty with your Dis-
obedience and want of Behaviour. His Majesty was
extremely amazed that his Cleansy should be defil-
ed, but yet, to your Comfort be it spoken, his Pati-
ence and Goodness extents as far as your Prevoca-
tions can: But if you still persist in your Obstinate,
those that are too full to stand, and too stubborn to bend, desire to be broken, and you think, I have said enough to you, but that the Fig-leaves you have so artificially stitched together, are not suffi-
cient to cover your Nakedness. I wish to God you had the same Tenderness for your Country, as his Majo-
sy's Counsellors have for you. But if you still persist to oppose the Royal Power of the King, We, who are come to vindicate the Right and Honour of his Majesty, refuse to discharge our Consciences and Du-
ties to God and the King, without any Reproof of
Popularity, that is but the Paradis of Fools, and Scorn of
careful Men: And therefore, as for us, we have no more regard to Peace and Peaceable, than what they dream. By reason therefore of your late hyperbolical Submissio, the Counsellors have thought fit, upon mature Con-
fideration, to draw up an Instrument, which shall be
read to you, to which, if you still immediately subscribe,
before you leave the Room, we shall bestow you to his Majesty's Parson. And this we expect from you all, except Dr. Tho. Smith, and Mr. Charnock, with whose Behaviour the King is so well satisfied, that he expels no more from them.

Then all the Fellows being called in, their Lord-
ships entered a Form of Submissio to them to be signed. Which take as followeth:

To the King's most Excellent Majesty.
The humble Petition and Submissio of the Fel-
lovs of St. Mary Magdalen-College in the Uni-
vercity of Oxon, whose Names are subjoined.

W E Your Majestys humble Petitioners, have a
deep Sense of being safely落下 your Majestys Difficulties, for our Disobedience and Con-
tempt to your Majestys, and the Authority of your Majestys Counsellors and Viziers: We do in all
Humility professe our selves at your Majestys feet, humbly begging Your Patron for our said Offence, and promising that we will for the future behave ourselves more dutifully; and, as a Testimony thereof, we do acknowledge the Authority of your Majestys said Viziers, and the Justice of their Proceedings, and we do declare our entire Submissio to the Lord Bishop of
Oxon, to our President.
The W hich Paper all except Dr. Thomas Smith and Mr. Charnock, refused to subscribe.

Dr. Aldworth, as Vice-President, was first ca-
listed in to sign the Paper which had been read to all the Fellows.

Vice-Prof. My Lords, we define Time to con-
tider of it, and to give us Answer in Writing.
Bish. Ch. No, you must every one sign, or re-
sole, as you are called.
Bar. Jean. There is no Anwer to be given, but by
my or any.
They all moved again for Time, but it was refused.
Vice-Prof. My Lords, this is the first Time of
my Appearance before your Lordships, since your fit ing here; and therefore I pray to be heard.
My Lords, I am as ready to comply with the
King's Pleasure as any Man living; neither do I
know, that we have ever in this Place been disf
bedient to the King, where it was in our Power to
obey his Commands. Our Founder in the first
Claufe of the Oath we take at this Election, has
provided, that no one shall be President of his Col-
lege, but who was bred in it, or in the College
where he himself was bred. Now for us who
have elected Dr. Hough, a Person qualified ac
according to our Statutes, who has been infall


Mr. Thompson being called in to sign the Paper, said:
Mr. Thompson, My Lords, I have been always obedient to his Majesty's Commands; I was not concerned in the Election of Dr. Hoogh; I voted for Mr. Farmer, and am ready to submit to the Bishop of Oxon.
Bish. Ch. Did you not put your Hand to this Petition? Is not this your Hand? — Read the Petition — [It was read] — In which the Fellows defined his Majesty, to nominate any qualified Person, and to retract his Mandate granted for Mr. Farmer.
Mr. Thompson. My Lord, I conceive the Petition not to be disobedient. We had not yet received the Mandate; as soon as it came, I humbled myself.
Bar. Jen. Then why can't you humble your self again; is there any Hurt in it?
Mr. Thompson. This Paper requires me to own my Disobedience to his Majesty: I am not conscious of any, and therefore I cannot fulfill.
After a short Time, all who refused to sign the Submission were called in, and by Sentence of their Lordships, expelled the College for Contempt, &c. (except as before.) After Sentence, all that were expelled spoke to this Effect: 'My Lords, we profess all Duty to the King, and Respect to your Lordships, but must beg leave to declare; That we think our selves injured in your Lordships Proceedings, and therefore protest against them, and think all unjust and illegal Ways of being relieved.
After a short Time, an Instrument was fixed on the College Gates, in these Words:

By his Majesty's Commissioners for Ecclesiastical Causes, &c. particularly authorized and empowered to visit St. Mary-Magdalen-College in the University of Oxon.

Whereas, in our Visitation of the said College, it appeared unto us, That Doctor Charles Altwhorw, Dr. Alexander Pudgely, Dr. John Smith, Dr. Thomas Belby, Dr. Thomas Stafford, Mr. Robert Almond, Mr. Mouwering Honmond, Mr. John Rogers, Mr. Richard Strickland, Mr. Henry Dobson, Mr. James Belby, Mr. John Davys, Mr. Francis Bannower, Mr. James Poyrer, Mr. Joseph Hurwayne, Mr. Thomas Batouam, Mr. George Hunt, Mr. William Croad, Mr. John Gilmoun, Mr. George Fulbon, Mr. Charles Pennynan, Mr. Robert Hyde, Mr. John Turby, Mr. Robert Holde, and Mr. Stephen Wilkes, Fellows of the same College, have been severally guilty of Disobedience to his Majesty's Commands, and obstinately concurred his Royal Authority, and do still peril in the same: We have thought fit, upon mature Consideration thereof, to Declare, Pronounce, and Declare, That the said Dr. Charles Altwhorw, &c. and every of them, be deprived and expelled from their respective Fellowships. And we do by this our Sentence and Decree, Deprive and Expel them of and from their said several and respective Fellowships.

Given under our Seal, this 16th Day of November, 1687.

WHITE HALL, December 10, 1687.

His Majesty's Commissioners for Ecclesiastical Causes, and for visiting all Cathedral and Collegiate Churches and Colleges, &c. met this Day; and taking into their Consideration all that had passed in the Business of St. Mary-Magdalen-College in Oxford, and the contemptuous and disobedient Behaviour of Dr. John Hoogh, and several of the Fellows of that College throughout the whole Proceeding, their Lordships declared, decreed, and pronounced, That Dr. Hoogh, Dr. Charles Altwhorw, Dr. Henry Fir- byn, Dr. Alexander Pudgely, Dr. John Smith, Dr. Thomas Belby, Dr. Thomas Stafford, Mr. Robert Almond, Mr. Mouwering Honmond, Mr. John Rogers, Mr. Richard Strickland, Mr. Henry Dobson, Mr. James Belby, Mr. John Davys, Mr. Francis Bannower, Mr. James Poyrer, Mr. Joseph Hurwayne, Mr. Thomas Batouam, Mr. George Hunt, Mr. William Croad, Mr. John Gilmoun, Mr. George Fulbon, Mr. Charles Pennynan, Mr. Robert Hyde, Mr. Edward Turby, Mr. Henry Holde, and Mr. Stephen Wilt, should be incapable of receiving, or being admitted to any Ecclesiastical Dignity, Benefice, or Promotion: And that all of them who are not yet in Holy Orders, were adjudged incapable of receiving or being admitted into the same. All Archbishops, Bishops, and other Ecclesiastical Officers and Ministers within the Kingdom of England, being required to take Notice of the said Sentence and Decree, and to yield Obedience thereunto.

The 17th of January, 1687, being the Day that the thirty sixies of Magdalen-College were, by Summons from the Bishop of Oxon, the now President commanded to appear before him; and none appearing, Mr. Charrvock the new Vice- President, called for the Battery-book, and struck out the Names of Mr. Holt, Mr. Allen Senior, Mr. Viffe, and Mr. Bradown Matters of Art; Mr. Hyde, Mr. Woodward, Mr. Fulbon, Mr. Water, Mr. Stacy, Mr. Shervian, and Mr. Kinnon, Batchelor of Art; Mr. Gryff, Mr. Buff, and Mr. Wills, Under- Graduates, Which Fourteen were then resident in the University, and three more, who were cleaved Expulsion at that time.

Afterwards, when the King had certain Intelligence of the Prince of Orange's Design, viz. October 12, 1688, he ordered the Bishop of Winchester, Visitor of Magdalen-College, to settle that Society regularly and stably: accordingly, October 16, the Bishop of Winchester caused a Citation to be fixed on the Gate of the College, to recall Dr. Hoogh, and the former Fellows of this Society, by the Second of November following; but an Account coming thence out of the Prince of Orange's Fleet being disabled by a Storm, the Bishop was recalled to London, and the Reformation of the College put off: But when it appeared that the Fleet was ready to fall again, then the Business of the College was resumed, and effected November 24.
CXLIII. Trial of Philip Standfield, Son to Sir James Standfield of New-Milns in Scotland, for the Murder of his Father, and other Crimes, Feb. 6, 1639. 4 Jac. II.

Philip Standfield, eldest lawful Son to Sir James Standfield of New-Milns, Prisoner within the Tolbooth of Edinburgh, Indicted and Accused to the Infamies of Sir James, Deputy Younger of the said Majesties Advocate for his Highness’s Interest: That where notwithstanding the Law of God, the Common Law, Law of Nations, Laws and Acts of Parliament of this Kingdom, and constant Practice thereof, the expressing of malicious and felonious Words to the Distress of his Sacred Majesties Person, and Contempt of his Royal Government, such as drinking or wishing Confusion to his Majesty, is High-Treason, particularly by the 22d Ed. 2d Suff. par. 15 King Charles II. of ever glorious Memory: The Plotting, Contriving or Intending Death or Destruction to the King’s Majesty, or any bodily Harm, tending to Death or Destruction, or who shall by Writing, Printing, or other malicious Plotting, and advised Speaking, express and declare such their treasonable Intentions, after such Persons being legally convicted thereof, they shall be deemed, declared and adjudged Traitors: And the Curfew, Beating, Invading, or Affrighting of a Parent by a Child, above the Age of sixteen Years, who is not mad and furious, is punishable by Death, and Confiscation of Moveables: And of all other Murders, Parricide is the most atrocious and unnatural; and Murder under Treason, punishable as Treason with Fortitude of Life, Land and Goods, and particularly by the 22d Ed. 2d Suff. 2d Par. King Charles II. The King’s Majesty and Estates of Parliament, considering how great and atrocious a Crime it is for Children to beat or curse their Parents, and how the Law of God hath pronounced just Sentence of Death against such as shall either of these Ways injure either of their Parents; therefore the King’s Majesty and Estates of Parliament did Statute and Ordain, That whosoever, Son or Daughter, above the Age of sixteen Years, not being diseased, shall beat or curse either their Father or their Mother, shall be put to Death without Mercy. And iflikewise by the 51 Ed. 11 Par. King James VI. I. It is Statute and Ordained, That the Murder or Slaughter of Subversor of the Liddes, the Party slain under the Truth, Credit, Affirmation, and Power of the Slayes, all such Murder or Slaughter to be committed in time coming, the same being lawfully tried, and the Perpetrators duly condemned, shall be Treason, and the Perpetrators found capable of处罚 for such Life and Goods; as in the said Laws and Acts of Parliament at more length is contained. Nevertheless it is of Verity, that the said Philip Standfield taking off all Fear of God, the Bonds and Ties of Nature and Christianitie, Regard and Obedience to the said Laws and Acts of Parliament, did dare and presume to commit the said horrid and detestable Crimes, in Iwa far as, upon the first, second, third, or one or other of the Days of the Months of June, July, Augst, or September last, by pult, one or other of them, he did, within the House and Kitchen of New-Milns, call for Ale to drink Some Ale, and to the Presence of John Pfifficke, then his Father’s Servant, Agnes Bruce, likewise his Father’s Servitrix, and several others, he did in a most villanous and avowed Traitor, presume and dare to begin a Health to the Confusion of his Sacred Majesty, his native Sovereign, and did drink off the fame, and cau’d others in his Company to do the like. And iflikewise Sir James Standfield of New-Milns his Father, having cau’d Educator and bring him up Decentlie, and in Plenty conform to his Rank and Quality, and having him no means unifieyed for his Literature, Education and Subsistence; yet he being a profligate and debauched Person, did commit, and was accourdy to several nozeros Villains, for which, both as an Infamous Person, he was apprehended and detain’d Prisoner, as in the Marches of Prussia in Southwork, in the publick Prison of Antwerp and Ordonance, and several other Places: And though his Father, out of his natural Compulsion to him, did cau’d relese him out of these Prisons, in which he was so justified confine, he no sooner had his Liberty, than he of new invented and went about his villanous Practice and Debauches: And his Father at last perceiving that nothing could reclaim him from thee and the like Proceedings, having signified his Inditions to disferr him, and in order thereunto, having dispose his Estate in Favour of John Standfield, his second Son; and his Lordship did themore concern, harbour and entertaine all hellyrig Malice and Prejudice against the said Sir James Standfield his Father, and most barbarously did declare, threaten and vow at several Times, that he would cut his Throat: And particularly upon the first, second or third, or remnant Days of the Months of the Year 1680, within the House of James Smith in Nungate or Hadlington; and upon the first, second, or third, or one or other of the Days of the Months of January, February, March, and remnant Months of the Year 1687, within the House of James Bakke in New-Milns; and within his Father’s own House of New-Milns; and in the House of William Scot there; and upon the first, second, third,
third, or one or other of the Days of the Months of January, February, March, and remnant Months of the Year of God 1683, 1684, and 1685 Years, when he was both in Bruges and Brucke, and several other Places, both in Holland and Flanders, and in Prifons, within which he was detained in the City of London and Southwark, on one or another of one or other of the Months of the said Years, or either of them most wickedly, unnaturally, and bitterly railed upon, abused, and curst the said Sir John Standfisf, his natural and kindly Parent. And being transported with Rage and Malice, he did, contrary to the Light and Tyes of Nature, nor once, but often, and frequently curst his Father, by bidding, and praying the Devil to take him, and the Devil rive him. God damn him, and fwear, if he had a Sword, he would run it through him, and if ever he came to Scotland, he would be avenged upon him. And particularly upon the Day of November last, which was the last. Time his Father went to Edinburgh, he did most impiously, and unnaturally, inprocrate God let him never return, and God let him never see his Face. And frequently when he saw his Father's Diet taken to him, he used to say, God grant he may chock upon it; and at other Occasions, when his Father refused to eat, he was in use to say, God let never more be in his Stomach than was in it then. And upon the first, second, or third, or one, or other of the Days of the Months of September, October, or November, last by past, or one or other of them, his Mother being rescued out of a Served, and having faid to him, Philip, ye shall shortly want your Mother, which will be a gentle Vifitation to Sir James your Father. To which he did addve: By my Soul, my Father shall be dead before you, Mother; and about eight Days after, he upon the like Occation did renew the same Words: As also he was in use to declare, that though at present he had neither Cloaths nor Money, yet shortly (and no body did think how soon) he would be Laird of all, and then would use other Parfons as they did him now: And at other Times declared, that before Cheriffes he would be Laird of all, which Cheriffes, by his Expecrations, he said Philip Standfisfs, by a continual Habit, used, and reputed thefe several Years by past; and lately, some few Months or Weeks before his Father's Murder. And not satisfied therewith, the said Philip did proceed to that Degree of unnatural Cruelty, and malicious Spice and Enmity against his Father, that upon the first, second, third, or one or other of the Days of the Months of January, February, March, and remnant Months of the Year of God, 1680, 1681, 1682, 1683, and 1684 Years, or one or other of the Days, or one or other of the Months, of one or other of the said Years, he did attempt to affliatiate, and offered Violence to his Father's Person, and did chace and pursue him upon the King's Highway at Lathian-burn, and did fire Pistols upon his Father: And likewise upon one or other of the Days of one or other of the Months, of one or other of the Years of God above specified, he did attempt to affliatiate his Father for his Life, at Cultivaters; and did fire Pistols upon him: And his Father being afraid of his Life, and under the Apprehension of Violence, from the cruel and bloody Hands of the said Philip, his unnatural Son, he did, to several Parfons both of Quality and entire Reputation, declare, that the said Philip his Son, had both attempted to affliatiate, and offered Violence to his Person, and that he was devising and contriving his Death. And the said Sir John Standfisfs his Father, having upon the 10th Day of November last, being taken from the City of Edinburgh, to his own House of New-Milis, and about ten o'Clock at Night, or there-by having gone to his own Chamber, in order to his Rest, and being alone in the Room, under the Credit, Truth, and Affiance of the said Philip his Son, and his own Servants within his own Family, the said Philip did consult, and advise, and correspond with some other Parfons, within and about the House for the Time, to affliatiate and cruelly murder his said Father, and particularly with George Thomson in Neso-Milis, and Helen Dickson his Spouse, and Janet Johnston Spouse to John Nivels, there, in the House of the said George Thomson many Times, particularly the Saturday Night immediately preceding the Murder, where he cursed his Father, and said he should shortly make an end of him, and be Master of all: And accordingly he and they did murder and slagne him in his Bed-Chamber, and in the dead Time of the Night, did carry and transport him from the said Room, to the Water, near by the House, and laid his Body down upon the Water-fide, and tied a Stone about his Neck, to make him sink in the Water; and before he was thrown there-in, he went back with his Accomplices to a little Kirk near by, and confounded and advised, whether it were not best to lay the Stone in the Water with the Stone about his Neck, to make him sink, or to take away the Stone, lest when he should be found, it might thereby appear that the Stone had been tied by some other Hand than his own; and at last refused to take away the Stone, and throw his Body in the Water, which they returning, did accordingly: And some Parfons being accidentally lying in the House at the Time, they did hear a Noise of many Tongues and Voices, to their great Terror and Amazement; and the next Morning very early, some of the Servants in the House having come to the Room where his said Father did lie, and having miffed him out of the Room, issued forth by the Country Gate, to search about. He declared that he had been seeking him about the Water-Pools; and a Noise and a Cry having arisen, Search and Enquiry was made for his said Father (and by him seemingly amongst the reft) And after some Time his Body was found in the Water hard by his own House, and being dead, and his Neck broken before he was thrown in the Water, his Body did neither sink to the Ground, nor receive Water (as all drowned Bodies are in use to do) and he knowing where his Father's Body had been put, went on the Sabbath-Morning directly to the Place where his Body was in the Water, and being in a considerable Space on the Water-fide, directly opposite to the Body, with his Eyes fixed on the fame, before his Body was found or known to any others than the Murderers; and when John Tomping (a Stranger) passing that way, and ignorant of the whole Matter, or that Sir James was amissing, called to him, and asked, who that was in the Water? He made no Answyer, but went away from that Place stray to New-Milis, and gave no Intimation to him, or any other Person what he had seen in the Water, but appeared sur- prised when his Body was found there by other Parfons; and his Father's Body being taken out of the Water, the fame was, by his Order, carried
to a dark Our-house, and though he was defiled by the Friends and Servants present, to suffer his Father's dead Body to be carried to his own House, and kept therein, and not to be buried till his Friends in Edinburgh, and elsewhere, and Physicains in Haddington, or near by, might see the same. Yet he refused so to do, and caused bury the dead Body of his Father privately, and in haste. And the Noise having spread abroad, that his Father had been barbarously murdered by him, and his Accomplices, Order was given by thieve in Authority, to cause open the Grave, that Physicains and expert Chirurgoins might inspect his Body, and make Report and the True of the Matter: And accordingly, by the Report of the said Chirurgoins who inspected the Body, it did appear, that his said Father was cruelly mangled and murdered, and not drowned, and that he had been cast in the Water of Purpose to conceal the same. And when his Father's dead Body was lighted and inspected by Chirurgoins, and the clear and evident Signs of the Murder had appeared, the Body was lowered up, and most carefully cleaned, and his nearest Relations and Friends were defiled to lift up the Body to the Coffin. And accordingly James Ross, Merchant (who was in Edinburgh in the Time of the Murder) having lifted the Left-side of Sir James his Head and Shoulder, and the said Philip the Right-side, his Father's Body though carefully clean'd, as said is, so at the least Blood was not on it, (did according to God's usual Method of discovering Murders) blood affixed upon him, and defiled all his Hands, which bruick him with such a Terroir, that he immediately let his Father's Head and Body fall with Violence, and fell from the Body, and in Confession and Confusion, crying, Lord, have Mercy upon me! and bowed himself down over a Seat in the Church (where the Corps were inspected) wiping his Father's innocent Blood off his own murdering Hands upon his Cloaths. By all which it is manifest, that he did most traitorously express his Hatred and Malice to his Majesties sacred Person, by wishing and drinking to his Confusion, and casting others to the same. And likewise, that he did not only unaturally curse, invade, attempt to afflict or besh his said Father, but under Threat and Affirma- tion, barbarously and treacherously did mangle, kill and murder him in manner forsaid, and is Actor, Art and Part of the forsaids Crimes, or one or other of them, which being found by an Affyle, he ought to be punished for the treasonable Crimes above specified, with foresight of Life, Land and Goods, and for the other Crimes above-mentioned, Capitally, and with the Pains of Death and Confiscation of Moveables, to the Terror and Example of others to commit the like hereafter.

Pursuers.
Sir John Dalrymple, younger, of Stair, his Majesties Advocate.
Sir George Macstinie, Advocate.

Procurators in Defence.
Sir David Tsiors, Sir Patrick Hume, Mr. William Mungow, Mr. William Dunblys.

The Pannal's Procurators produced two Warrants of Privy Council, commanding them to comply and plead the Pannal's Defence. Vol. IV.

Sir Patrick Hume for the Pannal (always denying the Indytment, and whole Members and Qualifications thereof) alleges, That as to the first Part of the Indytment, in relation to the drinking an Health to the Confusion of his sacred Majesty, as it is most calamious, so it is not to be suppos'd, that any Man in his right Wits would have been guilty of such a Thing: And it is positively offered to be proven, that at, or about the Time libell'd, and several Times before and after, the Defender did most heartily and cheerfully in several Companies drink the King's Health, and upon all Occasions he was ready to testify his Loyalty to the King, and particularly the Time of the Invasion by the late Duke of Monmouth in England, where he did emit himi from voluntarily a Souldier in the Earl of Dalbarton's Regi- ment, and continued in the King's Army till the Rebels were defeat, and the Volunteers dismissed.

As to the Second Part of the Libel, in relation to the Pannal, his alleged committing, and being guilty of, and accessory to any notorious Crime abroad, and being detained Prisoner in London, Cherbury, Ordinance, Sec., and that he ventur'd and entertained Malice against his Father, and that he declared many times that he would cut his Throat, and that he did rail against, and curse his Father, by many Imprécations.

It is answer'd, prima, That it is absolutely deny'd, that the Pannal was guilty of, or accessory to any notorious Crime abroad, or in Priscon upon that Account, nor is there so much as any Crime condescended upon.

2. The Defender could not conceive any Pre- judice against his Father, upon the Account of disposing his Efface to his second Son; for he knew nothing thereof till after his Father's Decease, that one Alexander Anfisie told him that his Father had made such a Disposition.

3. As to the pretended Expreßions, that the Defender should have had of Railing, Curling, and using Imprécations against his Father, it is far as the lawmen are libell'd to have been done Abroad, in England, Holland, or other Places, he cannot be liable to the Punishment inflicted by the Law of this Kingdom, because when a Party commits an Act in another Nation, he is only to be punished according to the Law of the Place where the Crime was committed, and not according to the Law of the Nation where he is a Subject, or has his Dwelling: As is clear by the Common Law, Authentick Cod. Ubi de criminae agi saperit. Qua in provincia quis deliquit, aut in qua pecunieor aut criminae restis si, in terra, in qua est, in terra sit, in terra sit, secundum dictum, in terra in qua est. In other Words, when any Person commits a Crime, or is liable to answer upon any account whatsoever, he is to be judged by the Law of that Place, which is established as a perpetual Law; and Mattiis de Crimina, in his Title, De Peiris, is express of the same Opinion.

4. As to all those pretended Expressions of rail- ing, curling, and threatening, libell'd, that were before March, 1665, the Defender is secured by the Act of Indemnity, by which all Crimes are indemnified, preceding that Time, against the Government and Laws.

5. As to any pretended Expressions of railing and curling since that Time, they being but
but Injuries alleged done to the Father, he might and did remit the same, in so far he did not chal-
lenge and pursue the same in his own Time; and this is clear from the Common Law, Carpen.
Part. 2. Squa. 65. Atest antem injuriarum nec acti
vae nec passee in Hæreditat transact, eius de melius
latitus injurias ignoravit. Ininit. lib. 4. tit. 12.
par. 1. de perpetui temperalous action. Leg. 19. par.
2. sq. quis cantium in judicio fisset. And leg.
13. sq. de injurias. injuriarum attulique nove brevi nove
erat habendi datar. As also it is a Principle in Law,
that diffinitions solutur tria, and if it could be
made appear, that the Pannal had any such
Expriessions, the Father did diffimulat and pas
from the same, in so far as by a Letter, dated in
June last, written by the Father to the Pannal, he
orders him to take in his Chamberlain Accompnies
of the Rents of his Lands, and of any Money he
had received from the Tenements, or for the Corns
fold, and that he expects he will do the same factly,
and recommends to him, to be careful of all his
Affairs, and subcribes himself to be his loving Fa-
ther. By which it is evident, that all former Dif-
ferences (if any were) between them, were then taken away.

As to the third Part of the Indenture, in relation
to the several Acts and Qualifications inflected
upon; to infer, that the Defender had Accession
to his Father D.ath, it is answerd, (prior) That
the Indenture, in so far as it is founded upon the
51. Act. Par. K. Ja. VI. in relation to the Mur-
der under Truith, which is declared to be punis-
able as Treason, is not relevant: Because the Fa-
ther cannot in Law be lid to be under Truith and
Affurance of the Son, and that Act of Parliament
takes only Place in Cases where a Man is invited to
his Neighbour's House, or of an Traveller being in
an Inn, and that he be murdered under that
Truith, and the same Act of Parliament being found-
ed on in the Case of Swnson, who killed his Wic,
in the Year 1666, the Indenture was retixed
for simple Slaughter. And in the Case of Maller
James Oliphant, in the Year 1685, the Lords of the
Seffion found, that a Son's Killing his Mother, was
not Murder under Truith, and to he was not punis-
able by that Act of Parliament, as guilty of the
Crime of Treason.

2. The Acts and Qualifications conjoined on to infer the Defender's Accession to his Fa-
ther's Death, it is the Opinion of all Lawyers, who have
written upon the Subiect, that is but a very
premature Refutation. And as Carpegvius ex-
presses it, Part. 3. Squa. 121. Novm. 51. Quod est
inadmiss ad amandum periktov, quippe cum hominum
faz et minus faciat quam modis excuparum &
tradicandis antiqua minus de crimine perpetratore fases
satis, sua eadem immov seps plus plus deficiat,
cum diversis, et obscurum facientum illo modorum
reh publica cum publicis committunt. And Paris de jux
gives an Infancy in his Tract. de Substituta super
the Word Torture; and Bayezin, That a Woman fes-
ing a Peron going by her Window, against whom she
had a Precuzzle, and that another having a
Hareid against her, and hearing that she has
had threatened to cut off that Person's Leg, the Party
that did hear the Woman ule the Threatening, did the
Thing; upon which the Woman that did threaten,
being challenged, and put to the Tor-
ture, did confes; yet thereafter it was found, that
she was altogether innocent, and that another had
done it.

3. As to the pretended Acts of the Defender's
alleged purifying, and invoking his Father, and
firing Pistols at him, at Lithuan-bur and Cultrel-
laris, in annum 1683, and 1684. As it is most ground-
less, so, if need were, it could be made appear by the
Perons who were in Company with him at that
Time, that the Defender and his Father were then
in entire Friendship all along the Journey, and he
was so far from making any such Attempt, that it
would be more appar, that the Defender did
behave himself towards his Father with all Sub-
mision and Repeche that became a Son to have to
his Father: But as to that, and all other Acts, pre-
ceeding Mord 1682, the Defender is scourd by the
Act of Indemnity; and as the Defender cannot be
pursued for any Crime preceding that Time, nei-
ter in Judgment nor out with the same, they in ef-
et being 10 Crimes, being taken away by the Act
of Indemnity, they cannot be so much as made Use
of as Qualifications or Aggravations, to infer ano-
other Crime posteriori thereto.

4. As to that pretended Qualification, that when
the Defender did touch his Father's dead Body after
it was taken out of the Grave, the Corps
did bleed.

It is answerd, That this is but a superfluous
Observation without any Ground either in Law
122. Novm. 51. That several Perons upon the
Ground had been unjustly challenged, and that he
in his own Experience had seen a dead Body bleed
in Presence of the Peron who was not guilty; as
also that he has seen the Body not bled in
Presence of the Peron that was guilty. And
Notiones de Criminalis, is of the same Opinion,
Tit. 16, de Quamper affectum. Numm. 12. de qua-
nums arma de Cadavere provocare proficiscat quod dictur 1a
devolui experimenti comparati, tamen cum ex-
perimenta falsa fuesit; ratio vero temo incolu mel
majus poluit, non inquitum inducere ad tortumus f omnium
em, non collin sectitii Indicii non inviri experi-
mento cuerdere quod certae ratione divinandum est.
And the Truth is, the Occasion of the dead Body's
bleeding, was, that the Churigions that came out
to visit the Body, did make an Incision about the
Neck, which might be the Occasion of the bleeding;
and so the very moving of the dead Body, when it was taken out of the Grave, and
out of the Coffin, might occasion the bleeding;
especially feeling the Body did not bleed for some
time after, which seemed to be more the In-
ception, and by the Incision: As also a further Evi-
dence, that it could not be the Defender's touching the Body as well as he, and several others present;
so that the bleeding could no more be ascribed to
his touching, than to the touching of the other Perons
present.

5. As to the other Articles lybel'd, relating to
the pretended Murder, they are but mere
Stories, and the Truth is, and it is offered to be
proven, that the Defender having gone to his
Cousin the 30th of October, before his Father's
Death, he did not sit out of his Bed, nor out of
the Room, till the next Morning with that. Juda
Roberts his Father's Servant came to his Cham-
ber, where he was in Bed, and told him, that he
had been in his Maller's Room, and that he
could not find him. Upon which the Defender
immediately arose, and put on his Cloaths; and
went
went out to see where his Father was. And then the other Word being brought him by some Person in the Town, that they did see his Father’s Body lying in the Water, and it being generally concluded by all, that he had thrown himself in the Water, and the Body being taken out, and laid in a low Room, it was thought fit by all the Neighbours about, that he should be buried the next Day.

6. The Particulars lybeld, to infer the Defender’s Accession to his Father’s Death, being but remote and uncertain Conjectures, it is a certain Principle in Law, that ex præsumptiounibus & conjecturis nemo crimini detecto condamnari potest, especially as to a Capital Punishment: As is clear from the Common Law, Leg. 5. Diges. de puellis, fa sae de suppliciisibus debere aliquem damnari, jutis enim eis Impunitatem relinquisse nocentis quam innocentem damnari. And which is the Opinion of all Lawyers, writing upon the Subject: As Barth., upon the foresaid Law, and Fairn. Part. 3. Op. Crim. Quaeg. 86. and the Lawyers by him there cited. And Maffard de probc Concil. 223. lays it down, 227. as a Reason of Con- clusion, quod malum de repetiunt acutissime legatur, quod malum efficiens tant qua malum indicatum ab eis contavenit quod aliud coerere non potest, non tamen sufficiens ad condemnationem sua corporalis sed duc- tatus pecuniaria.

7. The Presumptions and Qualifications lybeld, cannot be sustained even to infer an Arbitrary Punishment: Because they may, and are taken off by other Presumptions, that either the Father was not murdered, but that in a Frainzie, or melancholy fit, he had thrown himself in the Water: Or, at least, if he was murdered, that the Defender had no Accession thereto, and the Presumptions, concurred upon in Behalf of the Defender, elide the Presumptions contained in the Indictment, are false. That it is not easily known, that his Father was subject to melancholy Fits, and that in the Year 1679, the Time of Battock-Bridge, it is offered to be proven, that he was in a Fit of Distraction; and at another Time in his HOUSE at the Nether-lass, he was going to throw himself out over the Window, if one Thomas Lindall had not come in at the Time and pulled him back by the Legs, when his Body was half out over the Window. And some few Days before he went out of Edinburgh last, he came to George Stirling, Chirurgeon, and desired him to draw Blood of him, for a Diftermer in his Head, which he refused, unless he had Advice from a Physician. As also a Day or two before he went out of the Town, he was seen reading upon the Book of Burton’s Menechomy. And that Day when he went out of the Town in Company of Mr. Bell the Minster, and Attan, Merchant in Haddington, they observed him to be melancholy, disordered, and more troubled than ordinary; or if it could be made appear, that the Father was murdered, yet it cannot be presumed that the Defender had any Accession thereto, or that he would have committed such an Act against the very Ties and Light of Nature. As also it appears by the foresaid Letter, written to the Defender by his Father, that they were in entire Friendship; as also when the SurmFFE went Abroad, that his Father had been murdered, if he had been con- fiscious to himself that he had any Acces- sion thereto, he would have certainly fled the Country, and gone away. But he was so far from that, that upon the first Rumour of it, he came presently into England, and several Days there- after, it being told him, that he was suspected to have Accesion to his Father’s Death, he came voluntarily and entered himself in Prifon, that he might undergo the strictest and severest Trial: Which alone is sufficient, if it were more, to take off all the Presumptions lybeld, and to con- vince the World of the Defender’s Innocence; and it being a Principle in Law, that una praestitnns tollit omnes aliud presuntas added for the De- fender ought to be preponderant, Maffard Concil. 1205 is positive, That Presumptuonis quam Pfaut pro rei prevalent. As also that praestitnns affissinis naturalis praestitnns contrarius praestitnns. So that upon both these Considerations, the Presumptions adduced for the Defender ought to be futili- ed, to take away the Presumptions lybeld, and to free him from the Crime.

His Majesties Advocate answers, That the Libel consists of three Articles, (Primus) Treacon, by the Pannal’s drinking the King’s Confusion, and by the Murder under Traft. 2. The currying of a Parent. 3. The Qualifications inferring the Pannal’s Accesion to the Murder of his Father.

As to the first, it cannot be denied, but that the drinking or withing Confusion to his Majest, is the highest Act of Contempt, Malice, and Diddain to his Royal Perfon; and as the Relevancy of this Article is not expressly contraversed, fo the Acrority of the Act, and the forcing others to do the fame upon the common Grounds of Law, does clearly infer Treason, and it cannot be expected, that such extravagant Words should either be exprest, or particularly provided a- gainst by any Law in express Terms; but the Nature of the Words in express Terms of our Law discharging all Speeches to the Diddain of his Majest, the Contempt of his Authority, do clearly and naturally comprehend the Words lybeld, and by the common Law, Ad leg. juli Maj. crimen leges Majestatis ad exemptum leges scriptae e vindicandum.

And whereas it is pretended, that these Words were inadvertently said, and that it appears by the Traet of the Pannal’s Life, and his Readiness to en- gage in his Majesties Service, that the Words could not be deliberate and malicious. It is replied, That it is offered to be proven, that the drinking Confu- sion to the King, was openly and plainly propost; and that the Pannal did deliberately lend our Ear. Ade to drink certain Health; and that this Health to the King’s Confusion was the first or secon, and that it was no Lapse or Mistake in the Expresfion; but that he forced others to pledge and drink that same Health. And the Malice and Dilatory is evident, by the Health’s Subsequent, viz. Ani- scripfit, &c. and it is not at all relevant (after the reiterated and deliberate expressing of these Words) that he had retracted or drank the King’s Health; for a Crime once committed, is not retracted or taken off by such insufficient and unconfidential Speech, but to shew the Sending the Pannal had of the Importance of his own Words, the Pannal being informed, that some of the Perfons present had divulged his having drunk the King’s Confusion, the Pannal did conjure them to secrecy, and did menace the Witnelles with a great Gane, that he would beat and beat them if ever they told it.

Vol. IV.
Whereas it is answered in general, as to all Crimes committed without the Kingdom, that they cannot be cognized or punished here: It is reply-
ed, That as to Crimes against Nature, or the Law of Nations, as every Party is competent to be an Accuser, to every Judicature is competent; and therefore as to the Crimes of Treason, or curdling of Parents, wherever committed, they are equally punish-
able by the Justices: But because in relation to the Crimes committed abroad, there is no positive
Probation, but Declarations and Testimonies; therefore as to these Crimes, his Majesties Advocate
does not insist on them as distinct Crimes for, but as Qualifications, Documents, and Evidence of the habitual Debauchery, and unnatural Malice express’d by the Pannal against his Father for a
Traét of many Years.

Whereas it is answered, That as to all Crimes preceding 1665, they are taken off by the In-
demnity: It is replied, The Indemnity 1665, is no general Indemnity, neither as to Persons
nor Crimes, but particular Crimes are remitted, and particularly enumerat without any general
Clause. And as curdling of Parents is not particu-
larly enumera, it by the Nature of that Crime, it cannot be included or comprehended in any
general Indemnity: And the Words of the Act of
Parliament, to Act. 1. Par. K. Ch. II. bears
exactly, That the Curties of Parents shall be put
to Death without Mercy. So that a general Act of
Indemnity, or Mercy, without a special Rem-
mission, could not include this Crime, which, as
the Act of Parliament bears, is expressly against
Nature, and the Law of God; And by the Opinion of all Law writers this particular Indem-
not extend to all Crimes; but these Crimes which are called in Law Crimes excepted, are never in-
tended to be indemnified, nor such Crimes, where
the Interest of Parties is more than the Interest
of Publick Justice, and in all former and general
Indemnities, Murder and other Crimes are par-
ticularly excepted with a general Clause, except-
ing all such Crimes as are not to be comprehended
in general Acts of Indemnity: So that this too
horrid a Crime, wherein the Parent was more in-
terested than the Publick, neither was, nor could be comprehended under a general Indemnity: As also that excepted by the 1. Act of 1665 was expressly an Excommunication for all Persons below the
Degree and Quality of an Heiror, Wedlété or
Burges; and whether the Pannal were an Heire-
tor or not, yet it cannot be said, that he is below the Degree and Quality of a Wedlété or Burges; and therefore the Act of Indemnity is of no use to
him.

Whereas it is answered, That Sir James was
reconciled with the Pannal, and wrote kind Let-
ters to him, whereby, dítimulantia, former Injurious
were taken off: It is replied, That Injuries are
only taken off dítimulantia, which are not atroc-
ious, but never specifick Crimes, wherein the
Dícharge or express Renunciation of the Party
injured cannot liberà à vindicta publice, the Pun-
ishment of Crimes, especially in Capital Punish-
ments, belonging to the Magistrat; and the pri-
vat Party has not the sole Interet, nor can dif-
pense with Capital Punishments: But the Letter
found upon, does not in the least infect the Party’s Forgiveness or Diffamation of the Injury. And a Father ordering his Son to call in for Cham-
berlain Accompl, without overpowering him to
discharge the fame, is not the least Evidence of
Confidence in his Son, much less a remitting of his

As to the second Article, in relation to the
Curling, it is positively offered to be proven, nor
in single Acts, but by a Track and Habit of cur-
fing his Father in the most abominable Terms ima-
ginating.

As to the third Article, in relation to the Mur-
der, that this Matter may be clear, & it com-
et de Corps de lui, these undoubted Qualifica-
tions are offered to instruct, that Sir James Stand-
field was murdered and strangult, and that he did
not drown himself. 1. It is offered to be proven
by the Minífer, that was that Night in the
Houle, that long after ten O’clock at Night, and
that Sir James had retired to the Chamber, where
he lay alone, the Miniffir heard the confounded Whis-
per, Murmurs, and Noise of several Perfors, both
Men and Women, which affrighted him, and
that he heard the Noise go away by the back-
side of the House, which leads directly to that
Pool where Sir James’s Body was thrown in the

2. Sir James’s Body was found swimming above
the Water, and albeit it appeared by the Eye upon
the Top of his Cloaths, that he had been several
Hours in the Water, yet there had no Water en-
tered in his Body; which is a Demonstration, that
he was dead before he was thrown into the Water;
for a Peruon thrown alive into the Water, drawing in
of Air and Respiration, being in the Water, he must
draw in Water; and if the Peruon draws in as much
Water as fills his Conivest, he becomes heavy,
and so much drawn into the Water, and therefore
he sinks: But if a Peruon be thrown dead into the
Water, when the Clap of his Throat is shut, the
Water cannot enter, and there being so much
Empeirick, the Body is light, and supported by
more Parts of Water, than the Gravity of the Body
can depre. 3. There being several Chirurgiens
and others sent out by Order from Authority to take
up and inspect the Body, to see whether there was
any Evidence of Strangling, or other Symptoms of
Murther upon the Body; it did appear to all those
Perfors, who did depone before a Commitee of the
Privy-Council, That from the one Jugular
Wound, and another Wound of the Neck, there was
a Tamage of concealed blood injured Blood,
three inches broad, and that there was concealed
Blood in the Throat; upon which Matter of Faet,
the College of Physicians have given an unanimi-
ous Testimony in Writing, that Sir James Standfield was strangult, and not drowned:
And the Deacony of the Chirurgiens being con-
vened, have emitted a Declaration in Writing,
concuring and agreeing with the Report of the
Physicians: So that it is as clear as the Light of
Day, that Sir James Standfield was murder-
ed.

3. For the Qualifications, that the Pannal
was the Murderer, or accessory to the Murther
of his Father, these clear Evidences are offered,
which makes his Crime without possibility to be
palliat or denied. 1. It is notorious, that the
Pannal is a most debauch’d, vitious, pernicious
Perfon, and has been Priioner, or condemned to
die in all the Places or Societies he ever haunt
ed. He entered a Soldier in the Scotts Regiment,
where he was condemned to die at Trefor, but
made his Efcapes; and his being in Priion, in the
for the Murder of his Father.

3. Sir James Stansfield for these Debaucheries having dishonoured the Pannal, and disdained his Father to his Second Son; it is positively offered to be proven, That in the Navegate of Haddington, in James South's Houte, the Pannal being told, that his Father would dishonour him, he with horrible Oaths vowed to cut his Father's Throat.

And whereas it is answered to this Qualification, That the saying that a Son would cut a Father's Throat, it is but a remot Circumstance: It is replied, That the Law, and all Lawyers do agree, That Abno procedentes & damnabimus forintum, is a most pregnant Qualification of that Party's Crime, especially where the Thieves are to cut a Father's Throat, which of itself was to horrid and unnatural a Villany, that it cannot be doubted he durst vow it, wanted but an Occasion to act it. And it is acknowledged, that through this be the clearest Preliminary, yet per se, it is not full Probation: For though the Son had both vowed, and resolved, yet by an Accident he might have prevented; but the Probation at least left the Burden, that except the Pannal could produce, and document, that some other Person killed his Father, he must be repudiated the Murderer.

3. It is offered to be proven, That Sir James Stansfield, who was a Peron of eminent Sobriety and Veracity, did declare to several Persons, that his unnatural Son had attempted his Life, and offered Violence to his Person, and particularly, that he had pursued him on Horseback, and fired his Pistols on him; and that same Friday before Sir James was murdered, he did declare that it was his Deliberation, or any thing under Heaven that troubled him, but that his Son and Family were plotting and contriving his Death, and the next Night he was murdered.

3. It is offered to be proven, That the Pannal's Mother declared, That her Son had vowed to be his Father's Death, and that he was a vindictive Peron, and that she apprehended he had murdered him. So as to this Article, there is a Concourse of the Pannal's own Oaths, to murder his Father, and of his Father and Mother's Declarations, that he had attempted, and was still plotting the same.

The Second Qualification is, that, that Saturday Night, Sir James Stansfield coming home, the Pannal would not come where his Father was, either to Supper, or Prayer; and being expressly desired by several Persons, to go to his Father, and speak with him; he declared (that same Night he was murdered) he could not endure to see, or look upon his Father; and he had been all that Day close with Thomsoun and his Wife, and Janet Jonson. So after ten Hours at even, after the Family was gone to Bed, he came out to Thomson's House, which is hard by the Gate, and there in Presence of Thomson, his Wife, and Janet Jonson, he declared that his Father would neither give him Money, nor Cloth, and cursed his Father, and declared that he would shortly make ridd of him, which agrees with what he had several Times said in other Company, that he was to be Laird before Christmas; and that he was shortly to be Master of it, and none can think how soon. As also, shortly before Sir James's Death, the Pannal's Mother falling in a fit; it was said to her, Philip, ye will shortly want your Mother; to which she answered, By God, his Father should be dead before her: And eight Days after, his Mother falling again sick, he requested the same Words; whereby it is evident the Murder was deliberate and determined.

3. On the Sunday Morning, before Sir James's Body was found, Philip came to the Minister's Chamber, and told him that his Father was gone out in the Night, and that he had been searching for him about the Pools, and Water-side; and when the Minister bid him find him for making such Infirmations against his Father, he laughed at him, and went away to the Pool, and look about on his Father in the Water, but made no Discovery; and thereafter a Stranger coming by upon the Highway likewise, seeing Sir James's Body in the Water, he came back and disovered the Matter; at which Philip seemed surpried, and told that he had seen his Father's Body in the Water before, but he did not think fit to be the first Discoverer, which shews, that he was conscious of his own Guilt; otherways, upon the first Sight of his Father in the Water, he would have gone to him; but on the contrary, he never laid a Hand upon his Father's Body, either to pull him out of the Water, or to carry him to the House, for the Dread of some extraordinary Discovery, and did not allow the Corps to be brought within his Father's Gates, but caused carry the Corps to the Wake-Mill, where, to carry the Appearance of Strangling upon his Body, he entrapped Janet John- son with the Care of wounding him, who was known to be a Person so odious to Sir James, that he could not see her for her Benefices with the Pannal, and she did acknowledge, that she had not been for three Quarters of a Year within the House before; and yet this infamous Strumpet, who has been tortured out of her Privy-Council, as necessary to the Murder, was chiefly invited to see the naked Body, and the Cloaths put on it.

4. The Pannal did refuse to send for a Chirurgeon, and to let his Father's Body be fought, though the Minister and others did expressly demand it; and the Engagement in the Manufactory, who were acquainted with the Crowner-Laws, they made a Mureyn anent the Burial, till the Corps were fought; yet the Pannal caused bury the Corps that same Night without viewing them. The Corps being raied by Order, and Incision being made, whereby the Strangling did clearly appear, and the Corps being drelled clear, and Linnen was put on, it appeared no Strangling, but to take off Sufociation, the Corps were lifted up, and the Night-Cap being wrong put on it, it was altered and changed, and thereafter the Corps were laid down without any Blood upon the Linnen; and the Pannal (who to this time had never touched his Father's Corps) being required to asist to lift the Body into the Coffin, having taken his Father by the Right-side of the Head with his left Hand, James Raw bearing the left, the Pannal's Hand was altogether bleeding, as if his Hand had been put into a Vessel of Blood, which, notwithstanding all his impudent Refutation,
ution to the contrary, had that horrible Imprefliion, and Conviction upon him, that he let his Father's Head fall to the Ground, and cried out, O God, and run away and went to a Delf in the Church, where he lay greening and in Confufion, but durft never return to touch the Corps; and as there can no natural Reason be given, but an ordinary and wonderful Providence of God, in this kind of Discoveries of Murder; so the Fact was never more evident, and fur: Though half a Dozen of Perfons were bearing the Corps, no Man's Hands were bloody but the Pannal's, and the Corps being two Intire Days in the Grave, in that Weather and Seafon, the Blood by the Corfe of Nature was become fignar and congealed; fo that the former rolling and lifting of the Corps, and even the Incenfion itself had occasioned no fuch Effufion, but only some Water or Gore; but upon the firft Touch of the Pannal the Murderer, there appeared Abundance of liquid Florid Blood: And though this per fe might not be fuficient, and as Matthew acknowledges that moft Part do fullain this, as a violent Preufumption oft times experienced; yet in his Opinion it is not fufficient for Torture, becaufe Torture being in itfelf a Punifhment, it cannot be used, except where there is ffirmepna probatio, or ordinary and wonderful of the Judges is fufi- fied, as to the Truth of the Crime, and therefore ufe an extraordinary Corfe, to extort a Con- feffion, which proves that this Preufumption is fimulenta probatio per fe, according to their own Grounds.

And whereas it is alleged, that capital Punif- ment cannot be inferred from Conjeftures, but from clear and positive Testimonies; it is an- fwered, that the Lex vit. Cod. de probatoninibus, clearly states that Probation is either, Testamenta ta- buis injumentis documentis & indicis. And Mat- theus Rats a particular Title upon this fingle Que- fion, Cap. 6. Titulo 15. de probativeness, and does moft positively deliberate that Crimes are to be proven Documentis, Argumentis & Indicis. And it is moft evident, that the Probation which arises from the Nature of the Thing, which is incapable to be ifficificate, or impoied upon, as Wit- nelies may be, that kind of Probation is the fureft, becaufe it is always the fame, and admits no Va- riation. It's true, and it is acknowledged, that Ar- gumenta & Indica must be clara & evidente, and Probation being Bland facit fede judici, every Man's Experience tells him, that the Complica- tion and Conjunction of fo many evident Qualifi- cations, though none of them per se were fuficient, yet being all of them joined, it induces a greater Cer- tainty, than two Witnelies poftively deponing up- on the Fact. And therefore the Evidence of the Probation belongs to the Inquiff, and the Rele- vancy that thefe Articles conjoined, or any Part of them, are fufficient to infer the Crime, belongs to the Judge. As to the Probations offered for the Excuc- pation of the Pannal, they are not at all rele- vant; for though fo horrid a Murder is nor to be presumed against Nature, yet being proved, or fo strongly evinced, it does but conclude the Pannal's greater Guilt: And fuppofe that Sir James Stanfield was formerly Melancholy, and had been Frantick in the Year 1679, yet it is known he recovered his Health, and was of a compos'd, fedal Temper of Mind for many Years thereafter, and was as capable and diligent about his Affairs, thefe many Years, as he had been formerly, and was fo considered and employed by the wilft Men in the Kingdom; and at the Time of his Death there was no Sickness, or re- turning of Premia in him, but all that Week he had comphonely done his Affairs, and did upon the Saturday, when he went Home, difcoun- rationally upon all the Subjefts that occurred; But it being fo clearly documented and proven that he was frangt, it is a ridiculous Contenir, and there remains no Possibility that after he was frangt, he walked out and drowned himself. And as to that Preufumption, that the Pannal rendered himfelf Prisoner, it was indeed fuitable to the reft of his Impudence, and he did not ren- der himfelf till after the Order to apprehend him was intimate to him, when he could not escape; and when he was under Observation, and there did not want Project in fixing upon this Impudence when he could not escape, as a Qualification of Innocence, that he would render.

Sir David Thoirs without Repetition of the Rephies made by his Majefllys Advocate, doth make his Deply to the foresaid Rephies, and every Member thereof, in order as follows; viz.

TO the firft, Anont the treafonable Words, the Pannals Procurators oppose their former Anwers, and the Aét of Parliament whereupon that Part of the Defir'd is founded, being only in order to fuch treafonable Speeches adwifely fpoken. The conflant Traet of the Pannals Life, in drinking his Majefllys good Health at Occa- fions, and offering to adventure his Life in his Service in the ill Rebellion, fufficiently demon- strates, that if any fuch Expreflion did efcape the Pannal, as it is denied, the fame was only rath and unadvertifed, and not deliberatly and advisedly, as is required by the Aét of Parliament, to infcr the Pains lybbel; and the Qualifications added by my Lord Advocate, bearing, that the Pannal did confir the Perfon then prefent to Decracy, demon- strates that the Pannal was ex incontinenti hereby forrowfull and perfent for the fame. And it's clear by that excellent Law of the Cede, the Words whereof are, Si quis Imperatori malaeventis, fì ex infania mierandis, fì ex temeritate, & petulantia tenui u, fì ex animo initorandis ad principem re- signationem, whoe demonstrate, that by the Common Law, fuch an rash and unadvertifed Expref- sion was never to be laid hold on to infer a Crimi- nal Punishment, where the Peffon alleged, Ex- preffer thereof, was not evertherways fufpet of Di- loyalty.

2. Repeats the Defence as to Crimes alleged commettion abroad, and it were againft Refon and Equity, that Perfons for one and the self-same Crime, should be fubjett to the Punishment of feral Jurifdictions, where the Punishment of the faid Crimes, are different: But feeing my Lord Advocate declares he hath no Probation for thefe alleged Crimes, but Certificates and Affidavits, they cannot be obtruded as a Part of the Libel, be- cause the fads pretended Certificates and Affidavits, are neither infer in the Libel, or given out to the Pannal, and all Crimes are to be proven testibus, non testimoniis; and if the Culfom of Affidavits fhould be introduced in this Court, all Pannals (howt now innocent) might be murdered, by be-
ing deprived of their unanswerable Objections against the Gramers of these Affidavits, &c. and therefore they cannot be sustained as a Qualification to load the Pannal, or make the Inquest have a prejudicial Opinion of him.

3. As to my Lord Advocate's Reply anent the Act of Indemnity, the former Defence and Act of Indemnity is opposed, and bears expressly Murders, Robberies, Slaughters, and all other Crimes committed against his Majesty, and Laws of the Kingdom, either by Word, Writ, or Deed; which undoubtedly excludes all alleged Crimes, said done, or committed by the Pannal before the Time; and this Favour, quae gratia principis, is to be amplius and extended, and not restricted, and all his Majesties Judges and Officers of State are commanded to sustain the fame, according to the most ample Interpretations for the Pannal, that the Words will allow.

4. The Pretence that the Pannal was of the Quality of a Burger, or a Baron, is most irrelevant, the Pannal having no visible Fortune at the Time; and as my Lord Advocate himself acknowledges, no Expectation of any Fortune whatsoever. So that if Barons, Burgers, Life-renters, Woodletters, and likewise thee who have nothing in Possession at the Time, that is, the demand derived from the Benefit of that Indemnity, it is hence inutilizable to whom and from what Cause the fame was granted. And as to that Part of the Reply, bearing, that this was a private Injury, and fo not comprehended within the Act of Indemnity, the former Defence is opposed, and all Pretence of private Injury was taken away by Diffamation or Death.

As to the Pretence that the Reconciliation can be no Defence against the Libel, as to utinam publix, and that the Letter whereupon the Defence is founded doth not import a Diffamation; it is dynasty, that the Act of Parliament being a Comminatory Law, and principally intended in Favour of Parents, the fame was never yet made use of, and is hence not to be made use of in this Case, to deprive a Parent of his Child, for any rash or passionate Expulsion; especially, where upon Repentance the Father had remitted the Injury; but the Father being in effect Judge of the Injury, his remitting the fame ought at least to abate the Child from any capital Consequence. And as to the alleged habitual Curfing, the fame is denied, and the former Defence founded upon the Act of Indemnity, is repeated and opposed, and the Libel is opposed, which doth not bear habitual Curfing, but particular Acts at particular Times.

And as to the Qualifications alleged by my Lord Advocate, for fixing the Murder, or Accusation thereon upon the Pannal; it is dynasty to the first, that the Pannal's alleged various Life, and the Story at Veves, his being drunk in Prifon, and threatening to cut Throats upon small Provocations, the fame are extrinsic to the Libel, and cannot be respected. As to the alleged Threatening used in James Smith's House, the Libel is opposed, bearing these Expressions, to have been used in the Year 1681, or some Year preceding; and therefore the former Defence founded upon the Indemnity, is repeated, and opposed. And whereas my Lord Advocate pretends, that mine actions done ex quoque, is sufficient either to fix the Guilt upon the Perfon who used the Threats, or at least to burden him with the Probation, that another committed the Crime. It is dynasty, 1. That my Lord Advocate's Position is absolutely denied, unless he can instruct some other positive Accusation against the Pannal; and these pretended Threats being taken away, not only by the Act of Indemnity, but likewise by Diffamation, which is not only offered to be inferred from the Letter made mention of in the Defence, but likewise by the Defunt's owning, receiving, intertaining, furnishing, and providing for the Pannal, in every thing fitful as his eldest Son, the fame doth undoubtedly take away all Pretence that can be founded
founded upon threatening, so many Years proceed- ing; and by no Law can the Pannal be burdened to prove who were either Actors, or in Afection to his Father's Murder.

To come to the second Qualification bearing, that the Deponent said to several Persons, that the Pannal offered to invade him (denying the fame) the Father's Afection could not infer a Crime against the Pannal, unless the Crime it self were otherwise proven by Wittinges, and the fame is libell'd to have been said by Sir James before the Act of Indemnity. And Sir James's other Afection, that he was in Trouble, for fear of Prejudice from his Family, cannot infer a Crime, especially against the Pannal; and for a less can it be proven by the Relic and the other Son, who in Sir James's Apprehension were designing Mischief against him, and for their own Vindication, they would certainly depone partially against the Pannal. And the fame is repeated against the other Expressions alleged spoken by the Mother, and Wittinges cannot be received to prove what another Wittinge said.

As to the Pretence, that the Pannal refused to sum with his Father the Night before his Death. It is disproved, the Pannal was not at all in use to sum, except on Sundays and Holidays. And the Pannal had no Kindness for the Minifter, because he and others of his Gang had endeavoured to keep up Discord between him and his Father. As to the alleged Bleeding of the Corps, the former Defences are opposed; and although the Pannal did help to lift his Father's Corps before the Incision, yet no Blood did appear till long after that the Incision was made, and the Pannal did fall to grip that Part of his Father's Head where the Incision was. So that the Blood falling from the Wound, can neither be a Ground nor Presumption for Guilt; and though the Pannal was surprised to see his Father's Blood, yet the fame did only proceed from natural Dust and Affection, and not from any Apprehension of Guilt. And these Qualifications being all libell'd and debated upon, it is humbly desired for the Pannal, that the Lords of Judiciary would give a separat Interlocutor upon every particular Qualification.

Sir Patrick Hume for the Pannal adds, That as to the Point of Treason, it is offered to be proven, that it was when he was drunk, and after Cups, and is so premeditated, especially it being, as it is acknowledged by the Libel, in a drunken Company.

2. As to the Act of Indemnity, it is extended to all Crimes except the Archbishops Murder, and exceptio farsam, regula, &c. And the Act bears not that Clause excepting other Crimes, which utef to be excepted.

3. As to the Qualifications condescended on in my Lord Advocate's Answer, either they are libell'd, and so opposes the former Answer; and if they be not libell'd, they cannot be considered as Qualifications.

4. Whereas it is alleged, that the Pannal was in use to threaten to cut Throats, when in Passion, the Argument is retorted, for though he threatened, nothing followed; and fo his Threatnings were but verba jactantia.

5. As to the Citation out of Matthew, that Parties may be punished upon Prefumptions, it is answered, that the Case there cited is where the Person who committted the Slaughter was apprehended in the Place where it was committed, That he was all bloody, and with a bloody Sword, answerable to the Wound, and that he became pale when he was apprehended, and that he had made no Answer, but to Terrour fled away; which are such Acts as do evidently make appear the Slaughter, and could admit of no other Con- struction; but that cannot be pretended in this Case, where all the Prefumptions are remote and extrinsic, and even in the Case inflected by Matthew, and others of that Nature, they are only to take Effect in order to an Arbitrary, but not a Cap- tial Punishment, which is the Opinion of all Lawyers who ever wrote upon the Subject, and partic- ularly Maynard, de prob. confid. 123. Numb. 10, and 31, where the Question is fixed, De pluris pra- jationibus, in order to infer a Capital Punishment; and he concludes in the Negative, as a general Conclusion by all Lawyers, but only to in- fer an arbitrary Punishment.

As to the bleeding of the Body, it is offered to be proven, that the Pannal touched his Father's Body before the Incision, and it did not bleed.

The Lords, Judges-General, and Commit- tees of the Council, having considered the Libel, pursu'd by his Majesties Advocate against Philip Stansfield the Pannal. And the first Part thereof, overt the Treason libell'd, they find the fames; but it is libell'd, relevant to infer the Pain of Treason.

And as to the Pannal's cursing of his Father, mentioned in the Indenture; they find these Expressions, or either of them, viz. The Devil take him, the Devil rive him, God damn him, relevant to infer the Pain of Death: And repells the Defence founded upon the Act of Indemnity, and finds the Pannal is not under, or below the Quality therein specified.

As to the Pannal's murthering of his Father mentioned in the Indenture, they found the Libel as it is libell'd and qualified relevant to infer the Pain of Death, and remits the fame with the Qualifications libell'd to the Knowledge of the Affile, and allows Witness to be led for the Pannal's proving his Father to have been melancholy the Day before the committing of the Murder, and remits to the Affile to consider the Import thereof, if it be proven, and repells the whole other Defences prepared for the Pannal.

The Lords continues the Dyer against the said Philip Stansfield, till To-morrow at Two of the Clock in the Afternoon; and orders him to be carried back to Prifon, and the Witnesses and Affiles to attend, ilk Person under the Pain of 200 Marks.

Edinburgh, the Seventh of February, 1687.

Philip Stansfield, Prisioner, being this Day enter'd on Pannal, dilated, indited and accused for the treasonable drinking of the King's Confution, cursing his Father, and for the cruel and unnatu- ral murdering of him in Manner mentioned in this Diet.

The Interlocutor above written was this Day read again in Prence of the Pannal, and the Affiles after-named, viz.

William Bailly of Lanington.
James Glen, Stationer.
Alexander Reid, Elder, Goldsmith.
Charles Charters, Merchant,
David Hepburn of Humber.
for the Murder of his Father.

Edward Gilley, Merchand.
Robert Saunders, Merchand.
Samuel Monrig, Merchand.
Thomas Lendall, Merchand.
James Cledland, Merchand.
Hebora of Benfield.
William Paton, Merchand.
George Dravorhood, Stabler.
John Marfil, Merchand.
Alexander Edgar, Chirurgeon in Haddington.

The Affize lawfully sworn, no Objection of the Law in the contrary.

His Majesty's Advocate for Probation adduced the Witneffes deposing, viz.

John Robertson, late Servitor to Sir James Stanfield of New-Mills, aged twenty-four Years, unmarried, purged and sworn, deponents. That a little before Harvelft last, the Pannel being in the Kitchin of New-Mills, in the decease Sir James Stanfield's House, where the Deponent was likewise present, he saw the Pannel, Philip Stanfield, take a Cup of Ale, and heard him say, there is the Pope's Confusion, the Antichrist, the Church's, the Chancelor's, and the King's Confusion, and put the Cup to his Head, and drank a little, and then gave it to Samuel Spooforth, and commanded him to drink it on his Knees; deponents, that there were likewise besides Samuel Spooforth, Jeremy Smith, Agnes Bruce, and Elphise Tamsyn; and deponents, that Philip Stanfield, the Pannel, was not drunk at the time; deponents, that at the naming of the several Confusions above-mentioned, he fell drank a little of the Cup; and this is the Truth as he shall answer to God: The Deponent further deposes, that he said to the Pannel, after the drinking of the said Confusions, that it was Treason, and he answered, ye Dog, what are you concerned; ye do not understand to whom ye speak.

John Robertson.

Agnes Bruce, Servant to the deceased Sir James Stanfield, aged twenty-four Years, unmarried, purged and sworn, deponent. That a little before Harvelft last, the being in the Kitchin of New-Mills with Philip Stanfield, the Pannel, he saw him take a Cup of Ale, and drank the Confusion of the Pope and the King, and heard him bid Samuel Spooforth sit down on his Knees and drink the same, which accordingly he did; after this the Deponent went up Stairs, and knows no more what past at that Time, but heard they drank more Confusions. Deponents, that about a Week after it being talked in the House, that he had drank the Confusions aforesaid, he said to the Deponent, God damn him, if he knew who divided it, he would be their Death: And this is the Truth, as he shall answer to God. Deponents he cannot write.

Linlithgow.

John Robertson, late Servitor to Sir James Stanfield of New-Mills, aged 19 Years, unmarried, purged and sworn, deponents. That a little before Harvelft last, the Deponent was in the Kitchin of New-Mills with Philip Stanfield, the Pannel, where he heard them drink a Confusion to the Pope, Antichrist, and the King, and to the Devil; and the Pannel preft the Deponent to drink the same Confusions upon his Knees. Deponents, John Robertson, Agnes Bruce, Jeremy Smith, and Elphise Tamsyn were all likewise present at that time, and that their Confusions were drank several.

For the Murder of his Father.

John Robertson, above-design'd, being re-examin'd, purged and sworn, deponents. That the Deponent being at Morans Castle after Harvelft last, in order to give a Certifie of the Minifter, the Deponent having met with Philip Stanfield, the Pannel, he said to him, ye are a wife Lad, if ye have subfcribed that Bond, the Devil take him, and particularly the Devil take his Father, and named his Father. Deponent, that at another time, in the midst of Harvelft last, the Deponent and Sir James Stanfield, the Pannel's Father, being go for Smittoun with a Minifter, the Pannel asked him, where he and his Father was going? and the Deponent answered, that he was going to Smittoun with his Father; and the Pannel, Philip Stanfield, said, Devil, let never one of them come back again, Horrè nor Man. Deponents further, That several times, and frequently, when the Deponent had been seeking the Pannel to come to Dinner with his Father, the Pannel's ordinar Answer was, the Devil damn him, and you both, and Devil rive him, for I will not go to him, and if he had a Six-pence a Day, he would not go near him, for his Father girted upon him like a Sheeps-head in a Tongs, and that he had heard him say sometimes, God damn his Father: And this is the Truth, as he shall answer to God.

Linlithgow.

Agnes Bruce, above-design'd, being re-examin'd, purged and sworn, deponents. That she did hear the Pannel usually say and for the Devil to lend any Person that offended him; and that the Pannel did haunt much with Jane Johnstone, George Tamsyn and his Wife, and that he went frequently out of his Father's House after Supper to these Person's; and further deponents, that she has heard the Pannel frequently curse his Father, and bid the Devil damn him, and rive him, and swell him; and that she has frequently heard express his Hatred and Abhorrence of his Father, and that he could not abide to see his Father. Further deponents, that the Monday night before Sir James came to Edinburgh, the last time he was in it, being about a Fourthnight before his Death, the Deponent was ordered to call the Pannel to his Mother, after he was gone to his Chamber, and that accordingly she did it; and when the Pannel came down, the Deponent left him with his Mother alone; and when she was without the Door, the heard him say to his Mother several times, God damn him, if he did it not; and defired his Mother to take a good Heart, for as long as he had, she should not want. Deponents, she knows not what he meant by thee Words, but knows there had been a little Quarrel betwixt Sir James and

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his Lady that fame Night, further deposes, that on Tuesday thereafter, when Sir James Standsfield was going to Edinburgh, the did hear Philip Standsfield, the Pannal, say in his Mother's Chamber (his Father not being present) God let him never return, God let him never see his Father again, the Devil go with him, the Devil rive him, and take him away; and that there was no body in the Room at the Time, but the Pannal and his Mother, and the Deponent was at the Door. Further deposes, that about a Month before, Sir James Standsfield having reported that the Pannal was upon the Occasion of the Acompt given in by William Anderson, Brewer, the did hear the Pannal say, in his Mother's Chamber, (Sir James not being present) God damn him, if he should not do ten times worse, and that he could not endure to see his Father's Face, and that he had hares his Father thesir last seven or seven Years. Further deposes, that about a Fourthnight or twenty Days before Sir James his Death, it being said that Philip went to go to Chamber with him, the did say if he would be hang'd e'er he went with him; let him go, the Devil go with him, and let him never return; and this likewise in his Mother's Chamber, and in her Presence. Deponents, the Pannal did ordinarily shift Occasions of being in his Father's Company. Deponents, that the Friday before Sir James his Death, the knew the Pannal and Janet Johnstone were a considerable Time together in the Pannel's Chamber, where the Deponent heard Janet Johnstone's Tongue, but that not to know if George Thomason and his Wife were with them, Deponents, that on the Wednesday before Sir James his Death, Philip having curfed some of the Servants, the Deponent said to him, God be thanked, he was not their Master; and that he anwered her with an Oath, the knew not how soon he might be their Master: And further deposes, that she thought Sir James not so merry as his ordinar the Night before his Death, but that he conveyed Sir Bell to go to his Chamber, and thereafter came down to his own; and the Deponent having defied to speak with Sir James, his Servant, John Robertson, told her she could not, because his Chamber-Door was shut, and he was gone to Bed; and that she did then see Light in his Room, and when she was going away, found the Hall-Door, which was without his Chamber-Door, shut, and that the Hall-Door was not usually clost in the Night time, except Sir James had done it himself, and which he did but once in two or three Nights. Deponents, that on the Saturday's Night when Sir James came Home, he did go to his Ladies Chamber, where he stayed not a Quarter of an Hour, and that his Lady fell a quarelling of him for going to another House before he came there, and that the Deponent came out of the Chamber, and knows not what more paff there. Deponents, the next Morning, when Sir James was mide, the Deponent went into his Room to put on a Fire, and found the Bed better spread up than it used to be, and the Curtains more drawn about it, and the Candle, which usually was at the Bed-head, the found it standing on a Chair at the Bed-foot. And further deposes, that when the Defunct's Body was bringing up to the House, the Deponent would have had him brought to his own Chamber; but Philip swore that the Body should not enter there, for he had not died like a Man, but like a Beast. Deponents, that the Body was then put in the Walk-Miln (but knows not if Philip coud do it) and that the Body from that was brought to a Cellar within the Clofs, where there was very little Light. Deponents, that she did not see any Water come out of his Mouth, and that when the Deponent lifted up the Limmen-sheet, which was over him in the Cellar, some of them coud let it down again, for it was not fit to let the Body be seen. Deponents, that Janet Johnstone was present with the Body in the Cellar with the red, and that she was very much in the Cellar, nor his Lady would look upon her for a Good Time before, nor was she openly seen about the House, yet that Morning she went to the Ladies Chambers, as soon as the Body was taken out, and the Deponent was present and saw her come in, and well enough taken with. Deponents, the heard Philip, after his Father's Death, Greet and Cry, but few no Tears. Deponents, immediately after his Father's Body was found, he would have forced his hand in his Skin, for Sir James being free but the Key being gotten, it was opened, and he closed in, and first took his Father's Gold and Money out of his Pocket, and then got the Keys, and fetch their Cabinet, and that within an Hour after his Father was brought from the Water, he got the Buckles of his Father's Shoes, and put them in. Deponents, that on the Monday after Sir James's Death, the Lady and Janet Johnstone having quarrelled together about some Remains of the Holland of the Watcind-sheet, Philip came down out of his own Chamber, and the Deponent heard him say to Janet Johnstone, Hold your Peace, when I command you, for he would reword her well for the Kindnefs she had done to him at that time. Deponents, that when the Order came from Edinburgh to raife the Corps again, the Deponent did meet George Thomason the Taylor, and perceived him making and trembling, and ask'd him what troubled him? And that his Answer, was, he heard the blackest News that ever he heard in his Life, Sir James's Body was to be raised again, and said he would few no more in the House of New-Miln for the World, and before the Mourning's to his own House. Deponents, the knew nothing of falf Keys made use of about the House, only she heard the Lady say, that there were. Deponents, Philip had no lock-fall Place in the House, except a little Coffer, and that it once being opened, the Deponent did fee several Keys within it, and that he offered once the Key of one of the Rooms to the Deponent, but the Deponent would not take it, because she had the ordinar Key of the Room. Deponents, that Philip was in use to ly alone, but that after his Father's Death, he would not ly in a Room alone at New-Miln, and that he declared to the Deponent, that he was afraid to be alone in a Room, either Night or Day, and that he slept not the Night after his Father died, and that he should not go into the Room where his Father lay, if once he had the Cabinet of it. Deponents, that a short time before Sir James's Death, the Lady Johnstone being fallen in a Sword, and the Deponent having told Philip of it, Philip came to his Mother's Chamber, and that his Mother told him then, that he was like in a short Time to lose his Mother; and that he anwercd, in the Deponent's hearing, that his Father should be dead fit: And deponents, that some few Days thereafter, in his Mother's Chamber again, and in the Deponent's hear-
That the Deponent having met with the deceitful Sir James Stanislaus at Callier; but he does not remember positively the Time, but it was either in the Year of this King's Parliament, or the Harvefet before; and Sir James and the Deponent, and some other Company being in an Room, Sir James was discouraging of his Son's Undutyfulness, and within a little while having heard a Shot at the Window of the Houfe, and the Deponent and others offering to go out to fee what the Matter was, Sir James was unwilling to let them, left they should come to hazard. And thereafter having heard another Shot, they did offer to go down again, and Sir James still dissuaded them, and said, that it might be his distracted Son Philip. And they having enquired if he was in the Country, and how he came to fear any harm from him, Sir James said, he believed he was in the Country, and that in his going South, he had followed him to La- thbury-hunt, and shot two Piflins, firt one, and then another at him; and if it had not been that Sir James was well horded, and his Son Philip upon a Work-Hofe, he had killed him. And Samuel Mentes having faid, he was sure there could not be Ball in them; Sir James faid, he had gotten too many Proofs of his Son's Undutyfulness to him, that he had no will to be in his Reverence. Deponefs, that Sir James all that Night went not to Bed, and the Deponent fat up with him, and conveyed him into Edinburgh. And this is the Truth, as he fhall answer to God.

Mr. William Clerk, Advocate, purged, and sworn, deponents, That having frequent Occations to be with Sir James Stanifbfield, and he having directed him to draw a Difpofition of his Eftate to his Son John, Sir James did complain of his Son Philip's Undutyfulness to him; And the Deponent having dillufad ed him to do it, fince his Son Philip might be re- claimed; Sir James faid, no, for he had no Expectation of it; for when he was at the Laith-bill, there was none Piflins shot at him, which he was fure came from his Son Philip. And this is the Truth, as he fhall answer to God.

Mr. John Bell, Minifter of the Gofpel, aged forty Years, Solitarv, purged and sworn, produces a writ- ten Declaration signed under his Hand, upon what he knows relating to the Murder; and deponents the fame is Truth, as he fhall answer to God.

William Clark.

Mr. Roderick McMenzie, Advocate, being solemnly sworn and purged, deponents, That about eight Days before Sir James Stanifhfield's Death, the Deponent and he having met in the Parliament- Chaff, the Deponent invited him to take his Morn- ing-Draught. And when they were gone to Mr. Stot's Houfe, the Deponent perceiving him to be in some Concern, the Deponent asked him, what troubled him? The Deponent anfwered, that he had no Satisfaction at Home: Whereupon the Deponent faid, that People reported that he was part ly the Oculation of it, having difhufed his Son the Pannal, and acquainted him therewith: And the Deponent anfwered, ye do not know my Son, for he is the greateft Debauch in the Earth: And that which troubles the more is, that he twice attempted my own Perfon: And this is the Truth, as he fhall an- swer to God.

Rod McMenzie.

Archibald Dunbar, Merchant in Edinburgh, aged 26 Years, married, purged, and sworn, deponents, Vol. IV.
being waking, I heard for a Time a great DIN, and confounded Noise of several Voices, and Perfons sometimes walking, which affrighted me (supposing them to be evil wicked Spirits) and I apprehended the Voices to be near the Chamber-door sometimes, or in the Tranle, or Stairs, and sometimes below, which put me to Arife in the Night, and baffle the Chamber-door further, and I re-pre- mend myself by Prayer, for Protection and Preservation to the Majefte of God; And having gone again to Bed, I heard these Voices continue, but more lafh, till within a little Time they came about to the Chamber-Window; and then I heard the Voice as high as before, which increased my Fear, and made me rife again to look over the Window, to fee whether they were Men or Women; but the Window would not come up for me, which Window looked to the Garden, and Water, whether the Voices went on till I heard them no more, only towards the Morning I heard walking on the Stairs, and in the Tranle above that Chamber where I was lying.

3. I declare, that I told the Women who put on my Fire in my Chamber that Sabbath-Morning, that I had refted little that Night, through the DIN I heard; and that I was fade there were evil Spirits about that Houfe that Night.

4. I declare, that about an Hour after Day, Philip came to my Chamber, and afked if Sir James came to that Chamber this Morning, and told me that he had been looking for him upon the Bank of the Water: Unto which I replied, I have not seen your Father, but what mean you by the Banks of the Water? Whereupon Philip, without anfwer, went down Stairs immediately, and within a little Time I followed to fee what he meant; and having gone without the Gate, and up the Cowley that leads to the Manufactury, one came running, and faid, they had found Sir James lying in the Water: Whereupon I was pricked with fuch Affolement, Fear, and Trembling, that I could go no farther, but returned trembling to the Chamber; and having fteen down on the Bed-side, I faid, that according to what I remembered me, this is the fadden Day that ever I faw. My Affolement in the Night was terrifying to me, but this is more grievous. And having gone to an honeft Man’s Houfe, where I took Hotrle that Morning, I faid, if the Majefte of God did ever permit the De- vil and his Instruments to do an honeft Man wrong, then Sir James Stanfield has received Wrong, this left Night, which the Lord will difcover in his good Time.

5. I declare, that after my return from Morum, that Sabbath-Evening, Philip told me that he had adverfed several Friends at Edinburgh, and to reade that he was expeffing the Confiemnry amongst others that Night: Whereupon I commended what he had done, in fending for fuch intelligent Per- fons, and that for two Reasons. (1.) because it was neceffary his Father’s Body fould be fighted; (2.) because they could advise him about his Bu- rial. Philip anfwered, that he was fee by thefe that took him out of the Water. But I replied, that was not enough, for the Murder committed was either a violent Murder, or a diftrafted Mur- der; and having defcribed what a diftrafted Mur- der was, Philip relating fome Dif七星s of his Father he had been in fome Years formerly I faid, that I conceived no Person could come to fuch a high Act of Frenzie, to do fuch a Thing, but it would be known on him many Hours, yea some Days before; but I could tell, that Sir James was in his right Reafon at ten o’clock; wherefore I inclin’d to think it was a violent Mur- der committed by wicked Spirits; and fo advised that the Corps might be fighted by the nearest Physicians and Friends, which I was driving in that Tranle: Nevertheless, they went and fawd Sir James that Night, without either ac- quainting me, or feveral honeft Perffons who lived in the Place. Mr. John Bell declares his own written Declaration in Truth, as he fhall anfwer to God.

Sir Robert Sinclair of Steinfoun, purged and sworn, deponents, that after the Dependent and James Cranfurd, Chirurgeon, had opened the Corps about the Neck, and fewed it up again, and removed the foul Linnen, and put on again the clean Linnen, in doing whereof they were oblig’d to takfe the Body o’ and faw, and move the Head back and forward, the Dependent defired that the Friends might lift the Body, and put it in the Coffin, and that the Pannal, having come and lift up the Head, he did let it fall upon the Table suddenly, and that it made a confiderable Noise at falling, and that the Pannal retired back quickly, rubbing his Hands on his Neck, and crying, O God! O God! and fome other Words; and that the Dependent being aftonifhed therat, loofed to the Corps, and as the Pannal did take away his Hand from it, did fee it darke Blood through the Linnen, from the left Side of the Neck which the Pannal touched, and that the Dependent was amaz’d at the Sight partly through the darkeing out of the Blood, and partly through the Appearance he had of the Murder. Deponents, he faw no body touch the left Side of the Defunct’s Head the Time it bled, but the Pannal. Deponents, that as soon as the Dependent recovered out of his Amazement, he cry’d to the Boy, to give the Pannal fome Tranle-Water, which he did; but deponents he did not fee Philip the Pannal return again to the Body of his Father. De- pONENTS, when the Dependent and the other Chirurgeon were putting on the clean Linnen, and fuffling and moving the Head and Craig, he faw no Blood at all. And this is the Truth, as he fhall anfwer to God.

Sir Robert Sinclair of Steinfoun.

Sir James Morehead, and James Cranfurd, Chirurgeon, give in their Report and Declaration in Write, anent the Murder of Urquhile Sir James Stanfield, which they renewed upon Oath, in Presence of the Juftices and Affiffers, and whereof the Tenor follows:

Edinburgh, Decem- ber 1st, 1687.

We, under Subfcribbers, James Cranfurd and James Morehead, Chirurges in Edinburgh, having Or- der from Sir John Dalmary, his Majeftry’s Advo- cate, to go to Morum, and there to take up the Corps of
of Sir James Standsfield, and to fight and view the fame exactly, and, if need were, to open up the body, and to consider whether there appeared any Evidency of Wounds, Bruises, or Strangling upon the body, before what might have happened by his falling or drowning in the Water, &c. In Obedience thereto, we cauget up take the said body, and, in Presence of Philip Standsfield, Mr. Andrew Melville, Minifter of Morven, James Hamilton, Writer to the Signet, James Rove and Alexander Campbell, Merchants in Edinburgh, Umphrey Sparway, James Dick, James Mitche1, and John Robertson, Indwellers in New-Milns, and some others, having with all possible Exactness viewed the Corpse, we observed the Face a little swelled, and inclining to a red reddish Colour, some Pulses of some capillaries Veins in the Pallat of the Mouth towards the Uvula, as also a large and conspicuous Swelling, about three Inches broad, of a dark red or blue Colour, from one Side of the Larynx round backwards to the other Side thereof; we observed the Jugular Veins on both Sides the Neck very large and distended, and full of Blood; there was a large Swelling under and betwixt the Chin and the Cartilago Scutiformis; there was also a little Scratch below the left Mandibula, which had rankled the Cuticle, and made some little Impræfition on the Cutis: Having made Incision from the Chin down about the Larynx, and crofs upon the Swelling of the Neck, we found a greater Laxness and Dintance (as we think) than ordinary betwixt the Cartilago Scutiformis and Os Hyoides; we found the Tumour on the Neck, containing bruised, like dark or blacHf Blood the Jugulars, when cut, bled considerably, especially that on the left Side. Having opened his Breast, we found the Lungs distended to the filling up their Capacities, but free of Water: his Stomach, Liver, &c. were all in good Condition; we found no Water within the Corpse: the Corps had no Smell at all; the Breast, Belly, Privy-Parts, &c. were all well coloured, there was no Swelling in his Belly, nor any thing by ordinary to be feen on his Head. This we attested, and subfcrib'd with our Hands.

Sic subfcribuit, {JAMES CRAUFURD, JAMES MURHEAD.

Edinburgh, December 6, 1687.

In Presence of the Lord Archibishop of Glasgow, Lord Tarbat, President of Seflion, Advocate, and Callieith.

James Murhead, and James Craufurd. Chirurgins, being solemnly sworn in the Presence of the Committee of Council, depone, That the written Report annext the Body of the Deceased Sir James Standsfield is true, according to their Skill: And this is the Truth, as they shall answer to God.

Sic subfcribuit, {JAMES CRAUFURD, JAMES MURHEAD, JOHN GLASGOW. J. P. D. C.

Edinburgh, February 7, 1687.

In Presence of the Justices and Affiffors.

James Murhead, and James Craufurd. Chirurgins, being solemnly sworn, depone upon the Truth and Verity of the above-written Declaration in all Points.

Sic subfcribuit, {JAMES CRAUFURD, JAMES MURHEAD, LINTHBY.

Follows the Chirurgons of Edinburgh their Opin'ion about the said Murdr.

WE, under Subscribers, Chirurgons in Edinburgh, having fully considered the Report made by James Craufurd, and James Murhead, concerning the Condition of the Corps of Sir James Standsfield, and though it be not usual to declare more than Matter of Fact, yet in Obedience to your Lordships Commands, where ye defire to be informed, if these Symptoms, found upon the Body, do import Drowning or Strangling; we humbly offer our Opinion, to far as our Art or Experience will allow. And whereas the Report informs us, that there was found a Swelling, and protruberant Redness in the Face, a large conspicuous Tumour, about three Inches broad, of a dark red, or black Colour, from the one Side of the Larynx round backwards to the other Side thereof, a large Swelling betwixt the Chin and the Cartilago Scutiformis, the Jugular Veines, on both Sides very large and distended; and when Incision was made downwards, betwixt the Os Hyoid and Larynx was observed a Laxness, and Dintance between the Os Hyoid and the Cartilago Scutiformis, Incision was made crofs alongt the Tumour, it was found full of bruised Blood; the Jugulars likeways, when opened, yielding a considerable Quantity of Blood, especially on the left Side, no Smell or Corruption appearing in any Part of the Body. It is very probable these Parts have suffered some external Violence, which hath made them appear fo far different from their natural Figure and Colour, and could not be caused by Drowning Simly. As to the other Part of the Report, the Breast and Belly being opened, the Lungs found distended, the Bronchial-full of Air, without any Water, nor any Water found in the Stomach or Intestines, a Body, when drowned, being generally found to have much Water in it, with other Circumstances of the Report considered, gives just Ground to think he was not drowned. This we subfcribe at Edinburgh, the 3d Day of February, 1687. Sic subfcribuit,

J ohn Ballie, Deacon, Wm. Borthwick, George Stirling, Thomas Edgar, James Craufurd, James Murhead.

Follows the Report of the College of Physicains, Edinburgh, February 6, 1687.

The College of Physicians, being assembled at the Desire of his Majesties Advocate, to consider a Report made by some Chirurgins, concerning the Body of the late Sir James Standsfield, and to give their Opinion, whether by the said Report, there is any just Ground to believe, that the said Sir James Standsfield was Strangled or drowned? And they have accordingly considered the said Report. They are of Opinion, supposing the Verity of the said Report or Declaration, that there is sufficient Ground to believe, that the said Sir James Standsfield was Strangled, and not drowned. In Testimony whereof their Presents are subcribed by Sir Andrew Balfour, President of the said College.

Sic subfcribuit, A. Balfour, P.C. R. M.

Umphyre Sparway, Clothier at New-Milns, aged 50 Years, solutus, purged and sworne: depone upon the Truth and Verity of his own Declaration given in by him, which is all written, and subscribed with his own Hand, and confils of two Leaves of Paper, written on all Sides, which is Truth, as he shall answer to God.

Sic subfcribuit, Umphay Sparway.

Follows