a letter writ in a Hand which no man writes, a stiff Hand almost like Print; and it is plain that it is writ to digugue the Hand of the Writer, whoever he was. At the latter End of the letter, when the Perf'nt that writ it comes to be tired and off of his Guard, there are several Letters which compared with the Writing of my Lord Bishop of Rochester, and what is own'd to be his, appear to be his writing. In the Date of the Letter, which is December, the D you frequently find in the Bishop's Hand-writing; your Lordships observe the Letter E that frequently occurs in the Bishop's writings; and your Lordships by comparing that with the Letter produced, will find that they exactly agree.

Whether or no your Lordships won't think it, on the Circumstances of the Writing of my Lord Bishop of Rochester in a digugue Hand, we must submit to your Lordships. But, my Lords, suppose it was not his Hand-writing, here is Evidence that it was his Letter; and that is evident, because it is under his Seal, it is sealed with his own Seal, a Seal that he had in his Custody, and made Ufe of no longer ago than the 26th of February last: I think that is the Day a Letter was taken from his Servant. That we humbly apprehend, my Lord, will plainly shew it is the Bishop's Letter, because it was sealed with his Seal, and the fame Seal is made Ufe of by the Bishop, on the letter that was taken upon his Servant in February last.

My Lords, this Matter hath been controvertED by my Lord Bishop. He hath call'd Engravers, who believe Seals may be counterfeited, and Impressions may be taken off the Wax, and another Impression made, so as to make it difficult to know which is which. They were a little loose in their Evidence against me, or no, if the Seal, from whence the Impression was to be taken, was broken in the Middle, it could be done. But one fact, the Seal might be mendel, and it might pass unobserved, but I find it is extremely difficult. But they did say, Seals may be counterfeited, that it may be difficult to discover one from the other. My Lords, this is to in-finitude, that after such Time as the letter was taken upon my Lord Bishop's Servant, the Perf'nt in whole Custody of the Bishop's Letters was (which is proved to have been taken the 24th of Aug, amongst the Bishop's Papers) hath caus'd an Impression to be taken off the Seal with which the letter to Dubois was seal'd, (the Wax broken in two as it was) in order to fix it upon the letter that was taken upon my Lord Bishop's Servant, so as to prove the letter to Dubois to be the Bishop's Letter. Who is this to be fixed upon? Never was gone; I don't know, unless upon the Committee of the House of Commons: for the Bishop's Letter was taken on his Servant the 26th of February, the Committee of the House of Commons made their Report on the 1st of March, and the letter to Dubois had long before the 26th of February been in Custody of that Committee. And yet while this letter is in Custody of a Committee of the House of Commons, they will have it, here, is an Impression taken off a broken Seal, and put on this other Letter, in order to shew that there are Letters of the same Perf'nt. Who can believe this to be the Case?

An Observation hath been made, that truly the Committee of the House of Commons have not made any Observation of this Kind, with relation to this letter to Dubois, that it is the Bishop's letter: which is true; for they had not this Matter relating to the Identity of the Seals, under their Consideration; but this letter was not Disco-

very made: And therefore, my Lords, we apprehended that this was a letter directed to the Bishop by the Name of Dubois, it being found amongst his Papers, and nothing to the contrary did appear, till after they had made their Report.

My Lords, there are other Things your Lordships would have expected to have had an Account of, in answer to this Evidence. Here is a letter found amongst your Lordship's Papers; consequently so far we apprehend that this Evidence is a legal Evidence against the Bishop, as being a letter found in his Custody; this letter is directed to Dubois, and mentions the Hand of Johnfn. Doth my Lord Bishop of Rochester give any Account who Dubois is? who this Johnfn is? how this letter came there? No, my Lords, none at all. Doth his Lordship give you any Account of the Seal? and hath his Lordship said that the Seal, that failed the letter taken on his Servant, he hath not, or that the Letter was not sealed with his Seal, or that he did not seal it himself? His Lordship did not say one Word to that Purpose, or make any Denial of the Matter, nor give your Lordships any Account who Dubois and Johnfn were; nothing at all, but hath let to your Lordships on that Foot: That the letter to Dubois had an Impression taken off, after it was in the Custody of the Committee of the House of Commons, and that Impression made Ufe of on the other Letters; and this was another Part of the Contrivance, in order to charge my Lord Bishop of Rochester with being concerned in this Conspiracy.

My Lords, as to the Seal's being the same on the two letters, we humbly apprehend, the Evidence given on the other Side hath strengthened ours. We have produced two Engravers, one of them own to be the top Engraver of England, Mr. Chriftian: he gave your Lordships an Account, that he had only belived that two Impressions to be taken off from the same Seal. Mr. Kelis laid the same thing; and that he had used the Art long, and could judge. They made no Endeavours on the other Side to try the Skill of Mr. Chriftian: but as to Mr. Kelis, they hoped they should be able to puzzle him; and therefore have produced fix several Impressions made on Wax by Seals to try his Art; and after he had look'd upon them, he gives you such an Account, that, I believe, your Lordships are satisfied that he is a Man of Skill and Art, and that if these Impressions had been taken off, as they would infinuate they were, he must have discover'd it.

My Lords, here is an Artift brought to make this Experiment on Kelis, to try his Skill; yet, notwithstanding all the Art hath been made use of in the Cafe, that could be, the Man was able not only to culligine how many Seals the Impressions were made with, but also to give an Account that they were cull Seals, and not grand'd Seals, that made those Impressions.
1723. and others, for a Treasonable Conspiring.

April the Bishop was incapable of dictating or writing, it is no conclusive Anwer to the Charge against the Bishop as to these letters.

Your Lordships will please to observe, that upon the 12th of April the Bishop of Rochester came to Town, on the 12th he went into the Country; notwithstanding what they have attempted to prove as to the Times that Kelly was in Town, and the Bishop was in the Country, yet upon the 11th and 12th they were both in Town; for Kelly came to Town from France the 11th, and the Bishop came to Town the 11th from Bromley.

When the Servants came to examine'd, what time of the Day the Bishop came to Town on the 12th, they could not give any Account of that: When they were asked, what time of Day it was when he went out of Town on the 12th, they could give no Account of that.

There hath been no Account given to your Lordships who was with the Bishop of Rochester the 11th and 12th when he was in Town, or where my Lord Bishop was at that Time: So that, my Lords, it is possible, from these Circumstances, that these letters might be writ when the Bishop was in Town, and Kelly was in Town.

But suppose it should not be so; the Question is, whether they could not be writ at Bromley. On the 12th of April Mr. Kelly was at Mrs. Barnes's, he did not lie at home that Night; on the 13th he did not lie at home; on the 14th he came, and went to his old lodgings at Mrs. Kilburn's. These two Nights it doth not appear where he was; he might have been at Bromley, it is but an Hour's Ride. As to the Servants, say they, they should have remember'd his feeding up his Horse:—He might set up his Horse at an Inn, and go privately to my Lord Bishop.

Notwithstanding my Lord Bishop was ill, and that he should have proved to your Lordships Satis faction, that after he was ill, he did not, nor could admit of Company, yet we submit it to you for this Reason, that it is not very bad till he had been in the Country two or three Days, and these letters might be dictated or written in those two or three Days before he was so ill.

My Lords, I beg leave to observe, what the Servants have sworn. Here is Grant, that is my Lord's Butler, he says, that my Lord Bishop went the 12th of April to Bromley, and he attended him there till the 21st, and on the 21st he sent for Town upon some Matters relating to the Whig-Magnitude-Election; and another Servant about him gives an Account, that two or three Days after my Lord Bishop came down, he was taken so ill in his Hands and Feet, as not to be able to help himself.—These are two or three Days beyond the Time that Kelly was out of his Lodging, which was the 12th and 13th, (and these two or three Days must be the 14th and 15th) it may be my Lord Bishop was so disabled indeed he says; he says he is almost certain that no Stranger was with the Bishop; but he says the Apothecary that attended him in his Illness, who he did not see them himself. It is possible for the Apothecary or the Minister to be with him, and he not see them, why is not as possible that Mr. Kelly might be there, and he not see him there?

The next Witness that is called only speaks to the 18th and 19th; when Grant came to the Election,
tion, another Servant was sent for, and he went, and he says my Lord Bishop was very ill. Samuel Steele gives an Account of my Lord Bishop's Ill-necs, and his attending him.

My Lords, they have brought all the Servants of the Houfe, the very Stable-Boy, to prove that my Lord Bishop could not see any body without their Knowledge; even the Nurse that attended his Lady when he was dying. The Servants that were waiting upon his Lady swear, That it was impossible any body should come to my Lord Bishop, and they not know it; and they are as positive, in relation to any body's coming to my Lord Bishop, as the Servants that immediately attended him.

But, my Lords, there is a Matter, which we shall offer in Evidence, that entirely destroys this Evidence of my Lord Bishop's being ill, that he could not move Hand or Foot, and of his not being in a Capacity of dictating Letters; that he did actually fend a Letter the 21st of April, by a particular Officer, and this very Grant, that hath given this Account to your Lordships, brought up the Letter to Town on the 21st of April. We have this to give your Lordships in Evidence; then what is the Evidence of all these Servants, who swear that it is impossible these Letters should be writ on the 20th of April, and that no body was admitted to come to him in order to write these Letters?

My Lords, as to the Evidence that hath been given, in relation to Kelly's Hand-writing; they have called Witnessess to disprove the Evidence on our Side, who, looking upon the Letter of the 20th of April, swear they do not believe it to be Kelly's Hand-writing. Our Witnessess do believe it; their Witnessess do not believe it to be his Hand-writing, and say that it is not like it. There are several Letters shown them, tho' in a left Hand, that are agreed to be Kelly's Hand-writing; and your Lordships may judge, by looking on them, whether they are not of the same Hand with the Letter of the 20th of April. Tho' the Character is something lefs, we humbly apprehend they will appear lo be. Besides, there are those Circumstances relating to the Hand-writing of Mr. Kelly, that put it beyond all Dispute that it is his Hand, and that is the Anwers he hath received to those Letters which we charge to be written by him. We have traced him from place to place, where the Letters that came in answer to his Letters, were directed to Mr. Andrews at the Dog and Duke, there Kelly employ'd a Perfon to take them up, and they were deliver'd to him; and at Burton's Coffee-House: Kelly took up the Letters that were directed thither, in answer to those Letters that were of his Hand-writing. So there is not only the Evidence of Witnessess, that knew his Hand, and believe it to be his Hand, but here are the Anwers to them actually taken up by Kelly himself: and that we humbly apprehend is so strong an Evidence, joined with the other, that, when one or two Witnessess come and say they do not believe it to be his Hand-writing, their Testimony shall not overthow it.

My Lords, there is another piece of Evidence given by them, relating to the Letters of the 20th of April, which were enclosed in a Packet sent to Boulogne: the Packet is directed to Mr. Alexander Gordon Banker, at Boulogne: they have produced a Certificate from Boulogne upon Oath, wherein it is said, that he is no Banker, and denies that he received any Packet from Kelly, or that he knew him: This is a Certificate, and prove'd by a Person who believes it to be so. Your Lordships will please to observe what this Paper is, and that it is brought here by a perfon that knows nothing of its being sworn, but says, he is used to Transactions of this kind, and he believes it to be a Certificate from Boulogne.

My Lords, we shall produce a Gentleman, who was at Boulogne at the Time that the printed Report and Appendix of the Houfe of Commons came there, and he was at Mr. Gordon's House, when they were dicouraging about this Matter; and what they then said, we humbly submit will be believed; for what they then said was spoken as of an indifferent Thing, and they did not then see it could be of any Consequence to dispute the Truth. Mr. William Gordon the Father said, that he was not aware that this Packet was supposed to have come, but he expected it, he was sure he knew it was to come, and that it was not his own: that he was at home, and that this Packet came to him, but, said he, what was in it I know not, but I deliver'd it as is mentioned in the Appendix.

My Lords, there is another piece of Evidence, they have given, with relation to James Talbot, to whom the Packet was deliver'd at Boulogne. Here is a Witness produced to prove that he was in Town the 20th of April 1722, and he could not be mistaken, because he had paid him Money, and he had contrived it in his Book. The Evidence goes farther than to prove, that one James Talbot, that was a tall black Man, was then in Town; but it does not appear that this was the person mentioned to have taken this Packet at Boulogne, and carry'd it to Paris: So that their proof, as to this Matter, is insufficient.

But we shall shew your Lordships, from an Account we have here from Mr. Croxford, his Maid's; Heavens, that this James Talbot came to Paris that very Day, as he is mention'd to have brought these Letters to Paris, and was actually there at that Time; and that we humbly apprehend will be a full Anwer to them, and take away any ground of Supposition, that the Evidence they have given concerning James Talbot, can be appl'd to that James Talbot who received the Packet at Boulogne.

As to the Evidence relating to Mr. Kelly's being in Town the 20th of April, we humbly apprehend from what hath been said, it is not material whether he was there or not: but they have not proved it, for Mrs. Kilburne and her Maid, the two Witnessess produced by them for this purpose, say that he came to Mrs. Kilburne's Houfe the latter end of April, they believe the 20th, but they are not positive as to the Day. If he had been at Mrs. Kilburne's the 20th of April, it is an Anwer at all to our Evidence, and the strong Circumstances there are to induce a Belief, that the Letters might be dated at another time than reality they were written.

My Lords, another Evidence is Mr. Pope, a Gentleman of Learning, with whom my Lord Bishop of Rochester used to converse; and he gives you an Account that he knew nothing of this Conspiracy, that the Bishop never open'd his Mouth to him about it, nor acquainted him with it, that he was
was frequently with him, and their Discourse was only about Matters of Literature.

No doubt my Lord Bishop hath conversed with Persons on different Subjects, to whom he would communicate nothing of an Affair of this Nature.

My Lords, upon the whole Matter we must submit it to your Lordships, whether we have not made out the Charge against my Lord Bishop of Rochester, to your Lordships Satisfaction, if not by legal Evidence, yet by Evidence that will satisfy and convince any Persom that will consider it.

My Lords, a great deal of Regard is due to the Character and Function of the Reverend Prelate at this end, but if my Lord Bishop of Rochester hath departed from his Character and Function, and hath gone and engaged in a traitorous Conspiracy, and been guilty of Treason towards his King, and Peoruy towards his God, we humbly apprehend, if this be proved, that his Character and Function are so far from being a Mitigation, that they are a great Aggravation of his Crime.

We shall submit it to your Lordships, to do what your Lordships think is sufficient with Justice and Equity.

Mr. W-[ord] spoke next.

My Lords,

I must be admitted, that the Reverend Prelate at the Bar, has made his Defence with the utmost Force and Beauty of Eloquence.

Was I capable of answering it in the like manner, which I own I am not, yet I should not think myself at liberty to do it, under the present Circumstances.

For tho' it may be excusable, in a Person upon his Defence, to make use of that powerful Instrument of Error and Deceit, which always imploys upon the Reasom, and misleads the Judgment in proportion as it affects the Passions; yet, I cannot think the same Methods justifiable in a Person employ'd to carry on the Prosecution.

I shall therefore examine the Force of what has been offered on behalf of the Reverend Prelate, with regard to the Ornaments and Colours of Rheutric.

I shall, in the first place, consider that Catalogue of Hardships, which his Lordship has complain'd of:

1. The first Complaint was of Severities and Indignities offer'd him during his Confinement: but the Subject of this Complaint not arising from any of the proceedings before your Lordships, I can give it no other Answer, than by saying, that I am very credibly inform'd 'tis a Complaint without Foundation.

2. Reading Extracts of Letters was the next Hardship complained of by his Lordship, and represented as if they were read as Evidence against him: when it was declared by the Council for the Bill, that they were only read upon the general part of the Bill, and did not affect his Lordship.

3. The third Hardship was, accusing the Decyphers from answering such Questions propofed by his Lordship, as tended to a Discovery of their Arts; that is, in other Words, refusing to do an Act which must prejudice another Person, and could be of no Service to his Lordship: for the Truth of what they testified, depended upon the Skill and Integrity of the Decyphers, and not upon the Method of coming at that Skill, which they could not fide whether in publick a manner, without doing a manifest Prejudice to themselves; which no Wimefs is ever compell'd to do.

4. The next Hardship is of the like nature, the not suffering the Clerks of the Post-Office to be examined, as to the Method and Authority by which they open'd Letters, by which they might have been subject to the severe Penalties of the Statute 9 Anne, if they had not exactly pursu'd the Methods preferred by that Statute. But his Lordship's Innocence could not possibly have been thus prejudiced any; for in the letters left certain, if the Perom who stopped them did not punctual

ly pursue the Directions of that Statute? It would be thought a Strange Defence in a common Offender, if, instead of proving his Innocence at his Trial, he should object that he was taken without a proper Warrant; which, if true, don't make him the less criminal.

5. The fifth Hardship was refusing to let Mr. Lecisi declare any thing that came to his Knowledge by being employed in the Secretaries Office some Years ago. This Hardship could be added only to fill up the Catalogue of Complaints, since, notwithstanding your Lordships Order, Mr. Lecisi did declare what he was call'd for, tho' he afterwards own'd, that he came to the Knowledge of it by being employ'd in that Office.

6. The sixth Hardship was in reading an Examination not dater, sign'd, or sworn. But I apprehend the Council for the Bill have more reason to complain of Hardships of this fort, in reading Papers on behalf of his Lordship, as Examinations concerning Mr.W-[ord], without ever proving that they were sign'd or sworn to, or that any such Persoms were ever examin'd; whereas the Examination hinted at in the Bishop's Complaint, was read as an Examination, or rather Confession of a Person since dead, not sign'd nor sworn to, and fairly left to your Lordships, to have such Weight as the nature of the Evidence deserved.

7. The next Hardship, viz. that of reading Letters wrote by another Person, without Proof that they were wrote with the Prelate's Privy, is begging the Question upon the whole Proceeding. For whether there was Proof of their being wrote with his Privy or not, is the Subject of the present Enquiry.

8, 9. The two last Hardships complain'd of, seem to be calculated for Persoms without Doors, who are Strangers to what pass'd at your Lordships Bar, that he was denied a Copy of the letters in Cypher, until the Trial was so far advanced that he could not make the proper use of those Copies. Will any one who reads this Complain say, that his Lordship's Speech imagine, that after he had a Copy of those letters, he had twice as much time for his Decyphers to peruse them as he himself defrid?

Or will a Person who shall read the next Complain in his Lordship's Speech, that he was required to read any of the Papers contain'd in the Trunk that had not been read by the Council for the Bill, ever be persaud'd that his Lordship read the three first Examinations of Nynoe, that had not been read by the Council, the Papers taken in Nynoe's Pocket, the Certificate of the Surgeon return'd by the Council, neither of which had been read by the Council for the Bill; that his Lordship was expressly told, he was at Liberty to read
read any Paper in the Trunk he should think nece-
sessary to his Defence; and was only refus'd read-
ing one Paper, because he ow'd it for no other pur-
purpose, but to raise an Objection to a Mat-
ner which had not been infil'd on the Counsel
for the Bill, that he might answer the Objection
which he himself should raise.
These things will seem incredible to one who
will not read this Catalogue of Complaints in his
Lordship's Speech; and yet these are some of
those Complaints, which with the Affiliation
of a warm and masterly Style, drew Tears from some
of your Lordships Eyes:

But when fierry'd of that false Beauty, and ex-
amin'd by the sure and unerring Rules of Reason,
appear to be without Foundation; and to have
been made without that strict Regard to Truth,
which, I presume by some of your Lordship's
Speech, he would be thought always to have.

From these Complaints his Lordship proceeds
to support some of the Objections taken by his
Counsel to the Bill.

And one of the first Objections is of the same
nature with some of the Hardships that have been
complain'd of; that is, it might be an Objection,
did it not want the Foundation of Truth.
The Objection I mean is, that it is a Bill ex post
faa'to: Your Lordships have heard a great deal
said upon the Hardships of Bills ex post faa'to.
We have been call'd upon to shew against what
Law he has offend'd: it has been said, if he has
not offend'd against any Law, will you make a
Law in his Cafe, which will not be a Law in
the Cafe of any other Man? This is a surprizing
Objection.

The notion I always had of a Law ex post faa'to
was, where a Fact was made criminal by a Law,
which was not so at the time that Fact was com-
mitt'd.

But is that the precipitate Cafe? Was it no Of-
fence, before this Bill was brought in, to corre-
spond with the Pretender and his Agents, in order
to subvert our Constitution?
Are we to be call'd upon to shew against what
Law this is an Offence?
Or to have a Complaint made, that in punish-
ing a Man for such an Offence, you are making a
Law in his Cafe, that will not be a Law in the
Cafe of any other Person?
I hope it will be a Law in the Cafe of every
Man that equally deserves it.
But his Lordship is sensible of this Answer,
and therefore gives it a very artful Turn, by ap-
plying it, not to the Cafe, but to the Evidence.
His Lordship seems to argue, that accumulative
Evidence is as unreason'd as accumulative
Treason; and objects that Proofs which com-
municate Light and Strength to each other, have
only the Formality, without the Force of Ev-
idence.

This Objection is destructive of all Proof that
is not Mathematical; for all other Proof must ne-
cessarily be what he calls accumulative.
That is, it consists of a variety of Facts and
Circumstances laid together, sufficient to induce a
Belief which any of them singly would not do.
This is the very Principle upon which the Trial
of every Matter of Fact, not capable of a Demon-
stration, does and must proceed.

Your Lordships in the next place have heard a

firing of Objections, that have been repeated a-
gainst each of the Bills.

That a Subject of England ought to be tried
according to the Laws of England and Magna
Charta:

To be convicted by legal Evidence:
And that Difficult between legal and parlia-
mentary Evidence is absurd.

All these Positions I agree to;
But at the same time I must affirm, that this is
a Trial agreeable to the Laws of England and
Magna Charta; and that a Proceeding of this Na-
ture is as necessary a part of our Constitution, as
the Establishment of the ordinary Courts in Well-
minster-Hall.

The difference between parliamentary and legal
Evidence, taken in the general Sense of the word,
Legal, is improper.
And therefore, theEvidence which has been
offered in support of this Bill, is legal Evidence.

What is legal Evidence, depends upon the Na-
ture of the Inquiry, and the Jurisdiction before
which the Inquiry is made.

Depositions in writing are not legal Evidence
in a Court of Law, but they are legal Evidence
in a Court of Equity.

Upon an Indictment for Felony, or any other
Misdemeanour, one single positive Witness, or
Circumstances only without any positive Witness
to the Fact, is legal Evidence.

But upon an Indictment for Treason, the Law
requiring two Witnesses in the Courts below,
one Witness, or Circumstances, is not legal Evi-
dence.

In parliamentary Enquiries, which are except-
ced out of that Act and not restrained by any other,
every thing is legal Evidence which may proper-
ly tend to a Discovery of the Truth.

I can't think myself at liberty at this time of
Day, to mention what fell from the other side, of
falsely against the Power of the Parliament in general,
and the rather because the next Objection which
they relied upon was introduced with an admission
of that Power.

But they say it ought never to be exercised but
in Cases of Necessity; and instance particularly
in the Bill against the South-Sea Directors, as
a Cafe of that Nature. Is there any Comparison
between the Offence of those Men, and of one
who has endeavoured to subvert our whole Confi-
miration, to destroy our Religion, our Liberty, and
every thing that is valuable?
When we reflect that these Endeavours have been
constantly carrying on ever since the happy
Establishment of the Protestant Succession;
That the many Discoveries of their Plots, the
many Examples of publick Justice, have had no
other Eifect, than to make them more fabulous
and cunning how to avoid the common Forms of the
Law;
These Reflections shew the Necessity of such a
Proceeding, to convince the World, according
to your Lordships Report, that as Artifice and
Dishonesty don't lessen the Danger to the Publick,
nor mitigate the Guilt of the Offender, so neither
ought they to protect him from Punishment.

The next Objection was addrest chiefly to one
part of your Lordships, who were told that
no civil Power upon Earth could deprive a Bishop
of the Exercize of his holy Function, but that
must be done by another Judicature; and there-

It appears to be an Attempt, by a parcel of desperate People engaged in the same Interest, to weaken Nye's Evidence, whom they looked upon as a Betrayer of their Cause and Party.

From the Evidence of Nye they proceed to the other Evidence.

And here they tell your Lordships that they have supported the Bill by Innuedo's, Arbitrary and Invidious Interpretations; that when a Woman is named, it means a Man; that two different Names signify the same Person; that Books of Account, and mercantile Trade, by a new kind of Metaphor, are taken in an ill Sense: and all this isfitted with the Whimseys and Conjectures of Decypcrers.

These are pretty founding Expressions; but, when considered, are nothing but Sound.

Is it an arbitrary Interpretation, when a letter says, I saw Mrs. Illington, He is in great Tribulation for poor Harlequin, but his Obligations are the same, which he defiles may be made known; to apply this to a Man? When two letters are wrote by the same Person, but figuring by different Names, to apply those two Names to that Person?

When letters give a Caution not to write any more, till new Books of Account can be settled and sent over by safe Hands;

Because those who have got part may by the same names have got the whole;

To express a doubt whether they have been betrayed by false Friends, or an open Enemy;

To talk of having Wine, but wanting Barrels: of the absence of the King and Court, as affording a proper opportunity of ending over and selling their Wine:

A Man must have laid aside his Reason, that can think this the language of Persons really dealing in a mercantile way: 'Tis the plain and common Cant of a treasonable Correspondence.

They next object to the unreasonable benefits of applying the Circumstances which relate to Mr. and Mrs. Illington, to the Bishop of Rochester.

Was no body else besides the Bishop out of Town? Was he the only Man that had the Gout, or who left his Lady at that time?

Were these Quotations to be asked singly, they might be answer'd, that there were other Persons in the like Circumstances.

But then the Anwers would be nothing to the Purpose.

The only Quotation applicable to the present Case would be, Is there no other Person who was in Town on the seventh of May, out of Town on the tenth and fourteenth, in Town on the fifteenth; whole Wife died the Week before the thirtieth of April, he himself then ill of the Gout; to whom a Dog was sent from France of the name of Harlequin, that broke its Leg, and was brought to Mrs. Barney, by Mr. Kelly, in order to be cured?

These are the Circumstances of Mr. and Mrs. Iltington, and they are every one prov'd true of the Bishop of Rochester; and I believe your Lordships can hardly think they are so of any other Person.

They said they should falsify several of these Facts; but they have only said it.

In the Papers they have produc'd from the Surgeon concerning the Dog, he contradicts himself.

In the first he says, he gave Mr. Kelly a Dog for his own Use; to dispose of as he pleased;

In the second he says, he gave it for Mrs. Barney: 4 E

But
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But Mrs. Barnes tells you, that the Dog design’d for the Bishop was in her Custody, when the other given by the Surgeon was expected over.

Their Attempt to disprove the Circumstances of being in Town, has met with as little Success.

In a letter of the Seventh of May, *this said Mr. Illington is come to Town for a Day only:*

We thought that the Bishop was in Town upon that Day; they answer us by saying, he stay’d in Town two Days after.

Does this disprove his being in Town upon the Seventh? or does it weaken the Proof of his being then in Town, because he alter’d his mind, and flid two Days longer than perhaps he at first intended?

This is the only Attempt they made to disprove any of the Circumstances relating to Mr. Jones and Illington. As to the other Inferences which they pretend to disprove, they relate to Wraphon and Rigby, and were not mentioned by the Council for the Bishop.

They next object to the Method of proving the Similitude of Hands, and observe, that the original letter prov’d to be Mr. Kelly’s, and the three letters applied to the Bishop of Rochester, are dated at Four Months distance; and how is it possible, that the Clerks of the Post-Office should be able to swear upon their Memories that they are of the same Hand-writing?

This is not a fair Representation of the Evidence: For the Clerks told your Lordships that there was not any one Post, during all that time, which did not bring some letter in the same Hand, all which they copied, and had by that means contrived a perfect Idea of the Hand; so that they did not swear from Memory, but from a Knowledge gained by Experience, and many confirmative repeated Observations upon the same Hand.

There have been some other Objections made, that are scarce worth citing notice of.

*Tis said Mr. Illington is in great Tribulation for poor Harlequin, which Kelly could never say of the Bishop of Rochester.

Surely that is nothing in this;

*Tis an Expressive that might be used of a Man of the gravest Character in a letter of this fort, to the Author of such a Preface.

Mrs. Illington is mentioned eleven Days after the Bishop’s Lady was dead. This is the Instance where tis said Mrs. Illington is in great Tribulation for poor Harlequin, but his Obligation is the same, which he design’d may be made known.

That Jones is mentioned in other Cypthers for other Persons, as one for the Duke of Newcastle, in Plutarch’s for a different Person.

But does it therefore follow that in Kelly’s he can’t mean the Bishop of Rochester?

It certainly does not.

And they seem to be convinced that the Bishop is too well described in this Correspondence, under the Names of Jones and Illington, to doubt whether he is meant by them.

And therefore they endeavour to give it another Turn, by saying this may be a malicious Conivrance of some Perrons, who have inform’d themselves of his Lordship’s Motions, and the Circumstances of himself and Family: And to make this the more probable, they say that Jones and Illington are the only Perrons mentioned in this Corre-

Spondence of Mr. Kelly’s, with Circumstances of this Nature.

One would not imagine the Perrons who made this Objection, had so often heard the letters.

E. 41. *Tis said Hope is laid up with his old Dispen-
ser, Hobbert is pretty well recovered.*

E. 45. *Mr. Hope is laid up, and so is Jemison with the Smallpox.*

E. 49. *Rep. is laid to be in the Country.*

E. 59. *He and Den. are laid to be gone into the Country.*

E. 62. *Nic. W. is now in Town, he is well as to Health.*

E. 64. *Tranter is laid to be out of Town the next Morning.*

E. 69. *Den. is laid to come to Town, Rep. and Ho. to be in the Country.*

E. 73. *C. Saunders is well, and with a Friend in the Country.*

These are all Inferences where the same Circumstances can be found of other Perrons, that are mentioned of Jones and Illington.

If Jones and Illington are oftimes mentioned, it is because he was the principal Perfon in this Correspondence.

But this malicious Contrivance must be carry’d on by Mr. Kelly: for it has been proved that the Letters were wrote in his Hand, that the Anwers were address’d according to his Directions.

That he received the Letters so directed.

I believe your Lordships have no Sufcicion that Mr. Kelly bore an Ill Will towards the Bishop; I am sure there has been no Proof of it, nor of any malicious Contrivance against him.

But, my Lords, this is the common trite Excuse of every petty Offender.

Your Lordships can scarce read a Trial, where the Defendant don’t complain that it is all a malicious Contrivance of his Enemies.

I heard this very thing warmly insifted upon a few Terms ago, at another Bar, and with as much Proof, by a Person concern’d in a Part of this Conspiration, who has since been attainted and own’d his Guilt.

But we have gone still further, we have shown that Kelly was an Acquaintance of the Bishop of Rochester’s.

Which is indeed acknowledged, without any Satisfactory account given for what Purpose his Lordship should contract an Acquaintance with a Young Fellow, that has defrrred his Orders, and is a professed Nonjuror.

Your Lordships, I premise, from the Behaviour of Mr. Kelly, can hardly be persuad’d that he has had no other Employment under the Bishop than to furnish him with Beaver Stockings, which the Bishop owns to have received from him as a Present.

But we have proved by the strongest Evidence that can be, by a Letter under his Lordship’s Seal, and I may venture to say (from the Observations that have been made from the Letter itself) under his Hand, that Johnson, i.e. Kelly, is the Perfon in whose Hand the Bishop returns his Answers.

No Account is given of this Letter, by whom it was wrote, nor to whom, nor how it came among his Lordship’s Papers.

All that is laid in answer to it is, that ‘tis possible Seals may be counterfeited, or there may be
be several Impressions of the same Seals: but is there any proof of this?

It appears that the Impression on the first letter was broke when sealed; that it was in the Hands of the Committee of the House of Commons before the second letter was taken; which makes it impossible to imagine an Impression should be taken off the first to put upon the second.

But his Lordship is pleased to ask, Is it a reasonable, to the Cuning with which he is charged, to keep such a letter by him on purpose, as it were, to furnish his Adversaries with Evidence?

No, my Lords, neither do I imagine his Lordship knew he had it by him.

It was found amongst his papers, and, no doubt of it, was left there accidentally; and 'tis by such little Accidents that the most cunning Men are detected; there is no Danger of their committing greater Overights.

His Lordship is pleased to observe, that at first the House of Commons represented this letter as a letter written to him; but now 'tis discovered to be written by him: It is so, and very plainly, and his Lordship may thank himself for the Discovery; and the not discovering it sooner is surely no Objection to the Truth of it when discovered.

It may be urged, and has been infinituated, that if Mr. Jenkinson is the person in whose Hand he writes, and that the letters are of the Hand-writing of Talbot, signed by that Name, which denotes the Bishop in the Correspondence, this will be thought a reasonable proof that they were wrote with his privy.

But they said they should prove it impossible that these letters should be wrote with the privy of the Bishop; for they bear Date the 20th of April, whereas the Bishop came to Town the 15th, went to Bromley the 24th, and within two or three Days after was taken to sill with the Gout, that he had neither the use of his Hands nor Pen, and had a Servant always attending him, who will prove that no Stranger came near him all that time.

If this had been made out, it would not be a proof that the letters were not dictated by him; for both Kelly and the Bishop were in Town upon the 15th and 24th, and the Bishop was not confined at Bromley upon the 15th and 24th, when Mr. Kelly was out of Town, and probably at Bromley. And the letters bear Date upon the 20th of April, yet 'tis not to be imagined, that they were wrote upon that Day; for it requires a good deal of time to reduce three letters into Cyphers; and the Method generally used, where letters are to be sent in Cyphers, is, to write them in common Hand first, and then reduce them to Cyphers after: so that it's probable the Substance of these letters were dictated many Days before they were perfected and sent.

But the Evidence given by the Bishop's Servants is not to be regarded.

The first Servant, when he had sworn what he thought was material for the Bishop, being prevailed by a noble Lord with a Question relating to the letter directed to Dublin, refused to give any An-

The last thing prefixed by the Reverend Prelate, is a solemn Proclamation, I cannot say of Inno-

 swear, till the Bishop publicly gave him leave; tho' he was sworn to speak the whole Truth: which flew too great an Attachment to his Master's Interest, to defer much Credit.

And he the second Witness did admit, that the Apotheory, or the Minister of the Parish, might be with the Bishop without their Knowledge; and if so, why not Mr. Kelly, whose Visits required more Secrecy than either of the others?

And I must here observe, that what the Reverend Prelate intituled upon, to add Credit to the Evidence of the Witnesses, was the greatest Objection to their Testimony imaginable.

They tell you their Lordships, that tho' they were with the Bishop in the Tower, yet lie never once spoke to them concerning the Matter they had given in Evidence, till they themselves recollected it upon reading the Report; and finding that the Bishop was charged with being the Author of three letters, dated the 20th of April, they immediately recollect that the Bishop was ill at that time, and they conscientiously about him. This seems to be a very scarce credence.

That the Bishop himself, who was so nearly concerned, should not, upon reading the Report, recollect the Circumstances he was under at the time when those letters bore Date, if the Truth was as they would represent it; but that the Servants should first recollect this, and suggest it to their Master.

Or if the Bishop did recollect it, 'tis strange he should not mention it to those Servants, who were present with him in the Tower, and the only Persons, who, as they say, were capable of clearing his Innocence.

This had been very natural, and proper under his Circumstances; and his not speaking to them first, could hardly proceed from an unreasonable Scruple, lest he should be suspected of laying a byas upon them; since his Lordship has, after he knew they were to be Witnesses, given each of them a place under him as Dean of Westminster.

The rest of the Servants that were called, tho' they contradicted the first, by admitting that two other Gentlemen were at the Bishop's at Bromley, during the Time in question; yet they plainly flew a greater Regard for their Master's Interest, than for Truth: for the one of them was but the Helper in the Stable, and another the Nurse that attended his lady in her Illness, yet they take upon them to swear, that they verily believe no Stranger could be with their Master in private, but they should have known of it, and that they never knew of Mr. Kelly's being there.

Every body's Observation must conduce to them that such a Belief must be without Foundation.

The next Arguments used on behalf of the Reverend Prelate at the Bar, were raised from his unambitious refriged Temper of Mind, and from the Style of the letters laid to his Charge, That it's not probable he should use so indecent an Expresion of persons he was concerned with, as to call them pretending unpardoned People.

What Weight there is in those Arguments, I must submit to your Lordships, who are much better acquainted with his Temper and Style than I can pretend to be.

The last thing prefixed by the Reverend Prelate, is a solemn Proclamation, I cannot say of Inno-

ence,
ence, because it seems to me to be conceived in such Terms as not to contradict any part of the Charge inflicted upon the Counsell for the Bill:

It is chiefly calculated to answer some particular Circumstances of Times, without any Denial of the general Charge, or the least Declaration of Affection or Loyalty towards his present Majesty.

But if his protestations amounted to a direct and positive Denial of the Charge, they ought not to have any Weight with your Lordships, since this is a Defence equally in the power of the most guilty as well as the innocent: a little proof is better than many protestations.

And I can't help observing upon this Head, and hope his Lordship won't impute this Observation to ill-nature, but a Sense of my Duty, which obliges me to make all proper Observations. That it appears his Lordship has not always that strict Regard to Truth, which he ought to have, by the Papers taken upon his Servant at the Tower.

The Nature of the punishment has been much talked of in the Course of these proceedings, and great lamentations made upon it, but purely without any Reason.

For this Argument supposes the party guilty of the Charge, or else it's ridiculous to object to the Severity of the Punishment.

And I may venture to affirm, this is the mildest punishment that ever was inflicted for such an Offence.

His life is not touched; his Liberty nor property affected; he is only expelled the Society whole Government he disapproves, and has endeavoured to subvert; and is deprived of the publick Employment which that Government had intrusted him with: The Enjoyment of his life, his private Estate, and his Liberty, under any other Government that may be more agreeable, is allowed him.

This is scarce to be called a punishment, being nothing more than what was absolutely necessary for the publick Security.

The Commons of Great Brittain have done their part towards providing this Security, and I don't doubt but it will meet with the Concurrence of your Lordships.

The Council having done, the Lords in a grand Committee went thro' the Bill, and about ten of the Clock at Night, adjourned to Thursday, May 15.

Their Lordships being then fat, the aforesaid Bill was read the third time, and a Motion being made, that the Bill should pass, it occasioned a long Debate, in which the Bill of Salvifory spices as follows.

My Lords,

I have sometimes troubled your Lordships with what I had to say in other Debates; I believe it will be expected that I should say something in a Cafe so extraordinary as this is; and wherein a Brother Bishopp is so nearly concerned. I beg leave to begin with taking Notice of some Things that were peculiarly alluded to this Bench, both by the Reverend Prelates, and his Counsell, from the Bar.

The first is, That we would consider how agreeable it may be to the Canons and Discipline of the Church, in this extraordinary Manner to deprive a Bishopp of all his Preferences; and to prohibit him the Ufe and Execut of his Function for his life.

As to this Objection, whatever influence it may have abroad among ignorant people, when the Speeches come to be printed; yet, as to your Lordships, who know our Constitution so well, I cannot imagine that it can have any Weight or Influence at all. And indeed when I consider all the Acts of parliament relating to the Supreme, that have been made for near two hundred Years, when I consider the Articles of our Church, our Canons, and the Subscriptions that the Bishopp himself must have made, and must have required from others, in the Ex- ercise of his Function as a Bishopp; when, I say, I consider all these things, it is matter of Wonder to me, that such an Objection should be made, either by a Bishopp of the Church of England, or by a lawyer of the Kingdom of England.

I do not indeed recollect above one instance of a particular Act of parliament made to deprive a Bishopp; which is, that of Bp. Bishop of Kel- legher; who was so deprived in the Time of Henry VIII., not, as to general Acts of Parliament, whereby Bishops and Prebendaries have been deprived of their Preferences, we have a good Number. Thus, in the beginning of Queen Elizabeth's Reign, almost all the Bishoppes of England were so deprived: And at the Revolution, many were so; and all might have been so, if they had not complied with the Terms of the Act of Parliament: And at the Restoration, many hundreds of Prebendaries were deprived in the same manner. And I conceive that it cannot well be doubted, but that the same Authority which can make laws by which the whole Bench may be deprived, may extort Relief in a particular Cafe, if they have just Reasons for it.

As to the Trial of Bishoppes for any Crimes they shall be guilty of, we are to consider the different Nature of the Crimes of which they are accused; and the Trial by law must be accordingly. If the Crime be of an Ecclesiastical Nature, such as Ecclesiastical Courts can take Cognizance of, as Simony, Heresy, and the like; the Trial regularly must be by the Arch-Bishop of the Province, taking to his Assistance some of his Suffragan Bishoppes. But even in this Cafe, if either the Arch Bishopp shall, upon Complaint, neglect to try him; or, if upon Trial he shall acquit and absolve him; the Accuser may appeal to the King in Chancery: Which Court may appoint a Commission of Delegates, who, by the Authority of the Crown, judge him, deprive him of his Bishoprie, prohibit him the Use of his Function for his life (if the Crime deserve it) tho' he were before acquitted by the Arch Bishopp. But if the Crime be of a Civil Nature, such as Treason (which is the Cafe now before us) the Ecclesiastical Authority has nothing at all to do with it; and should any Ecclesiastical Judge attempt to meddle with it, he would be judged to attempt against the King's Crown and Dignity, and quickly have his Proceedings stopped, by a Prohibition out of the Temporal Courts. And I would beg leave to observe further, that were this Bishopp to be tried in the common Court of Law, for the Crimes whereof he is accused in this Bill, it must be either by your Lordships, as a Member of this House; or by the Judges
and others, for a Treaonable Conspiracy.

1723. and a Jury in Wettingley-Hall. I would not at present say which, because it would lead me out of the way: But in this Case, if either your Lordships, or the Judges below, should pass Sentence upon him for the Treason of which he is here accused, that Sentence would, ipso facto, deprive him of the Bishopric: It would also make him liable to lose his life; but it would not, ipso facto, take it away, as it would his Bishopric: He might notwithstanding that Sentence live many Years; but from the Moment of it, he would be no Bishop of Rochefort.

These Things, I humbly conceive, are abundantly sufficient to answer this first Difficulty; and therefore I shall add no more but this one Observation: That the way that is now taken to deprive him, is the only way that I know of, wherein the Bishops can have any Part in the Sentence of Deprivation.

The next Thing that was suggested from the Bar, particularly to this Bench, was, That we should confer well what we are doing, and have a care that we do not, by concerning in this Bill, make our Title to our Bishoprics precarious.

As to this Admonition, the Anwer is very easy, That it becomes us, as we have the Honour to have Seats in Parliament, to take care to do Justice; as, on the one side, to the Prisoner, so on the other side, to our King and Country; and to trust in God, that in so doing we shall neither hurt ourselves, nor our Successors. But, so far as just Judges may look to Events, the Argument seems to me to lie the other way: For, if for want of doing Justice against Traitors to King George, the Pretender should happen to prevail, (which God prevent) the Title of Proctorial Bishops is like to be very precarious indeed.

As to the power of Parliament to pass Bills of this kind, the Parliament always had it, has frequently exercised it, and always must have it; it being essential to the very Being of the Supreme Power. The lives and liberties of every Man in England are subject to it: and tho' the Exercise of this Power may be dangerous to Persons who will venture upon treasonable Practices, trusting to their Cunning and Artifice to screen them from the Law; yet I have that Confidence in the Integrity and Justice of the Crown, and two Houses of Parliament, that, so long as this Example is followed, of giving a full and fair Hearing to the persons accused, innocent Men cannot easily suffer; or, in all Events, that if Corruption or Faction should ever so far prevail, that there should be Danger to innocent Persons, it will be much easier to corrupt Witnesses or Juries, or to find other Methods to destroy them, than it will be to prevail upon a Parliament to do it: As I am persauded that, in this particular Case, had there been any Corruption, some other method would have been found out, more effectually to come at the Perfon concerned than this is like to do.

The last Particular that the Bishop peculiarly addres'd to this Bench, was, That we would consider the Words of St. Paul to Timothy; Against an Elder receive not an Accusation, but before two or three Witnesses, 1 Tim. 5.19. The Sense of which Words his Lordship understood to be, That an Accusation should not be so much as re-

ceived against an Elder or Prebendary, and much less against a Bishop, but upon the Oaths of two or three Witness'es.

In answer to this, I beg leave to observe, that our Translation renders the Words, nor, upon the Oaths, but, before two or three Witnesses: which seems to import a very different Sense: from that his Lordship puts upon them. But, not to enter into any critical Examination of the Truth of our Translation, or what the real Sense of the Words is, I would only make these short Observations: First, that the Sentence the Bishop puts upon them, that an Accusation against a Prebendary or Bishop, must not be so much as receiv'd into Court, but upon the Oaths of two or more Witnesses, is not practis'd in the Church of England; and, I believe, never was practis'd in any Christian Church whatever.

The second Observation I would make is, That whatever be the Sense of the Words, it regards only the Conduct of a Bishop towards his Prebendaries, but certainly was never intended to give a Law to the Supreme Power of a Kingdom, in its Proceedings in Cases of High-Treason, against any Subject whatsoever.

But the Bishop urges further, that the Jewish Law did require at least two or more Witnesses in all Judicial Proceedings; and from thence infers, that it ought to be so amongst us.

In answer to this it may be reply'd, That this is a part of the Judicial Law of the Jews, which was not given to us, and therefore doth not oblige us any more than the rest of that Law doth; except where the Reason of the thing lays an Obligation upon us. But indeed, I am of Opinion, that that Law doth oblige us, so far as it was intended to oblige them, and so far as it can be adapted to the infinite Variety of Cases that must happen in Judicial Matters. That Law is very short, and therefore must leave many Questions that may be made about it undefined: I shall at present take notice of these two only, which may be material to our present Difficulties: the first is, Whether the meaning of it be, that all Controversies and Accusations whatever must be determined by Witness'es and no other way? or, Whether upon Supposition that the Matter be to be determined solely by Witness'es, and no light can be brought to it any other way; that then the Witness'es must be at least two? The second is, Whether those Witness'es must swear directly to the Fact; for instance, that they saw such a Man murther another, or the like; or whether it may not be sufficient, that they swear to such Circumstances, as infer a strong and violent Pretension, that such a Fact was committed by such a Person?

These things are left undetermined in that short Law of the Jews; but, I humbly conceive, are sufficiently determined by the Nature of the thing, and by the Laws of all Nations, and particularly of our own. It is true indeed, that in Cases of High-Treason, we have from Political Considerations determined, that there must be two positive Witness'es, to some one or more Observations of the same Treason: but, as to all other Crimes, that equally affect the Lives and Estates of all the Subjects of England, this is not the Case; and Men may by Law lose their lives when there is not so much as one positive Witness to the Fact.
I beg leave to explain this in the Words of my Lord Chief Justice Coke: 1 When a Trial is by Witnesses, regularly the fact. 2 Affirmative ought to be proved by two or three Witnesses; but when the Trial is by Verdict of Twelve Men, there the Judgement is not given upon Witnesses, or other kind of Evidences, but upon the Verdict; and upon such Evidence as is given in the Jury, they give their Verdict; and many times Jurors, together with other matter, are much induced by Premises. 3 And indeed, no Man could be convicted of Murder, or Robbery, or other Crimes of that Nature, but by two positive Witnesses that saw the Fact done; nothing would be easier or faster than the Communion of those Crimes; and no Man could have any Security, either for his Peron or his Estate: And therefore, if in Cases of High-Treason our Law requires positive Witnesses, it is not from any moral Necelity, or point of Confidence; but from political Reason, which must, and always will be, Subject to the Judgment of Parliament.

Having now done with what was from the Bar peculiarly applied to this Bench, and having, I hope, given a very plain Anwser to it, I now beg your Lordships leave to proceed more directly to the Bill itself. And here, two things are necessary to be considered, in order to convince your Lordships, that it is a Bill fit to be pass'd; the first is, the Lawfulness of it; the second is, the Prudence or Expedition of it.

As to the Lawfulness of it, it will be necessary also to consider two things; first, Whether your manner of Proceeding in this Bill be lawful; secondly, whether the Bishop be really Guilty of the Crimes charg'd upon him.

As to the manner of Proceeding, many things have been objected: That it is by way of Bill, and not a Trial in the Course of Law; That Evidence has been admitted, that would not have been admitted in any of our Courts; That these Things are contrary to the liberty of the Subject; That every Subject has a Right to the Laws of his Country; and That he has an Injury done him, if he be denied the Benefit of them. This I take to be the Sum of what has been objected a-gainst the Justice of your proceedings in this Bill.

In Answer to these Objections, I beg leave to confirm, first, wherein the liberty of England consisteth, which is a Point commonly pretty much mistaken. Many People are apt to imagine, that the Difference betwixt us, and some of our neighbouring Countries, is, that they are under Absolute Power, and we are not; whereas in truth all Countries, that are Supreme within themselves, have equally an Absolute Power; and in the Nature of the thing it cannot possibly be otherwise: No Government can subsist, if there be not a Power in it to change, to abrogate, to suspend, or dispence with its Laws, as Necessity or Conveniency shall require; which is what we call Absolute Power: and therefore, the Difference betwixt one Government and another, does not lie in this, that one has such a Power and the other has not; but lies merely in the Difference of the Hands in which this Power is placed. Where this is placed in one Hand, in the King, we call it an Absolute Monarchy; Where this is placed in more than one Hand, but only one mouth hands in conjuncture, we call the State of the Kingdom, that we call a Limited Monarchy; and the People that live under such Government, are called a Free People; because they live under Set Laws, which could not at first be made, nor can afterwards be altered or dispenc'd with, but by their own Consent. However, there is still in such Countries, a Power equally above all their Laws, as there is in the most absolute Monarchy in the World.

What I have said upon this first Head, will in a great measure explain a second Question: What is the Right, in which the Subjects of this Country have to its Laws; which is, in short, a Right to claim the Benefit of them against the Crown, or any Court acting under the Crown, till the States of the Kingdom (which are virtually every Man in the Kingdom) think fit to confect to the Alteration of them. The King is indeed Supreme, but his power is only according to the Laws in being: By them he is bound to act, and if any of his Officers act contrary to them, what they do is null and void, and they are punishable for it; and the Subjects have a Claim of Right against them. But if the King and his People think fit to come to a new Agreement to alter any such Law, there's an end of all Claim of Right in the Subject: the Law is taken away by their own Consent: for, as I said before, every Man in the Kingdom virtually conveys to what is done by an Act of Parliament.

And there is an absolute Necessity that there should be such a Power as this in every Country; for the State of human Affairs is so changeable, that it does not admit of any Set of unalterable Laws. What is good at one time, may be destructive at another; and what is generally good, may, under particular Circumstances, require a Dispenion by a proper Authority. And here, give me leave to observe to your Lordships, the Difference there is bewixt the eternal Laws of Justice and Righteousness, and all positive Laws whatever. That as to the first, we are made for them, and the nearer we do in all things conform to them, the more noble, and lovely, and excellent Creatures we are: but as to positive Laws, they are all made for us; and the more they conform to us, the more they obviate all our Wants and Difficulties, the more they answer to all our Necessities, the better they are.

As to what is complain'd of, that your Lordships admitted Evidence to be read, that would not have been admitted in the Courts below: I conceive, that acting in the Capacity you now do, you have a full Power to do it, and have not broken any of the general Rules of Justice by it. You have let in all the light that you thought might be proper to give you a full Knowledge of the Matter; and in the Capacity you now act, I cannot but humbly be of Opinion, it was your Duty to do so: but in forming of your Judgments, I take for granted, that your Lordships will distinguish, and lay no more Weight upon any thing than it deserves.

As to the Rules of receiving Evidence in Waghminister-Hall, I conceive, that they are no part of natural Justice, but only artificial Rules fram'd for Convenience; and bind no Courts, but as they have agreed to them, and so become the Customs of the Court. That these Rules are no part of natural Justice appears from hence, that many modern Countries have different Rules in their Courts: That those used in our Courts, are very different
different from those used in other Countries: That they differ here, according to the different Causes or Crimes that are to be tried. Nay, they are so far from being fundamental Parts of Justice, that they must require a groundless deal of Time and Art to form them. And as I am persuaded, that was a Perfon of good natural Sense, who knows nothing of the Law, asked his Opinion; he would be apt to think it to be a Part of natural Justice, that every Perfon that prosecuted a Cause in any Court, should be at Liberty to produce before that Court, whatever he thought material to his Cause. And there is no doubt, but that this was the original Way of Proceeding: but that in pro-
cesses of Time, when Courts came to have a good deal of Business, and they found by Experience, that this Way of laying every thing before 'em, tended to lengthen Causes, (which was especially inconvenient where Juries are concerned, who must end a Cause before they part) their Rules were gradually found out; which, tho' they may be, for the Reasons above specified, generally convenient, yet may sometimes hinder Justice, by not suffering all the Light to come into Court, that may be material in the Cause.

Having said thus much concerning the Justice of your Method of Proceeding, I now come to consider the second and the main Point of Justice to be regarded in this Bill: which is, Whether the Bishop be Guilty, or not, of the treasonable Practices charged upon him in it. And in this I shall be the shorter, because your Lordships have heard the Evidence on both Sides, and all that has been said from the Bar by both Sides upon it; and because there are many Noble Lords in the House, much able to lay things of this Nature dif-
tinctly and clearly before your Lordships, than I am.

The Cause of Kelly is so connected with that of the Bishop, that I must beg leave to speak a few Words to the one, before I proceed to the other. As to Kelly, I would observe in the first Place, that one strong Presumption of his Guilt is, that when he was first taken up, he refuted the Officers; that he seiz'd his Sword, and some Papers that had been taken away from him; and was resolute to burn those Papers, tho' with the apparent Hazard of his own Life, and being guilty of the Murder of one of the Officers that he seiz'd them.

In the next Place, it is prov'd before your Lordships, that after he was taken up, the People at his lodgings burn'd the rest of his Papers; a plain Evidence, that they who knew his manner of Living and Conversation, suspect'd that he was Guilty. And this is agreeable to what Neyne told the Chancellor of the Exchequer; that there was at that time, a general burning of Papers.

Thirdly, Another Presumption of his Guilt, is, that when he was taken up the second time, he of-
tered several Sums of Money to the People of the House where he was in Custody, to suffer him to escape, as appears from their Oaths at the Bar. Those things I mention, not as full Proof of his Guilt, but as strong Presumptions, that make every thing else that is sworn against him very credible.

The chief Evidence of his Guilt, are, a great many Incriminating letters, both from him, and to him, concerning treasonable Matters. Those from him, are by several Witnesses prov'd to be his Hand-writing, particularly by the Offi-
cers of the Post-Office, who took them and trans-
dence; and that he had promised him much greater Sums, if he would go to France, and get it out of Dillon and the Jacobites there: The Inference from which I take to be very plain, that the Court did not dislike letters, that the Persians were, that were designed by the Cant Names; and that they did believe that Kelly did know, that Dillon and the Jacobites in France knew too: which effectually and fully confirms that Suggestion of the Bishop, of which he did not bring the least Proof, that the Plot was a Convi-

vance of Persians in Power.

The next Thing I would beg leave to take notice of, relating to the Bishop, is a letter (taken among his Papers) from a Lady of great Quality, of which the Bishop, that it was objected to him by the Council for the Bill, has taken no notice; which I conceive he would and ought to have done, had it been possible to give any fair Account of it. The Lady * in that letter tells him, that the first thing that she had received, she could not tell forshadow; but let it be for shadow it would, the thoughts He might be tried, and that it could not be put into better Hands. A Strong Suspicion this, considering all the Bishop's Papers, that there was a Correspondence by Cant Names, which the Lady did not certainly know, but believed the Bishop might; or however, that he was in all Events a Person to be trusted.

Another very fulsome Circumstance against the Bishop, is, the letters from Captain Holford, and what has been proved at your Bar, that this same Captain Holford, a little before he went in his Ship to fetch over the Duke of Ormond, writ him to a Person there, and laid with him an Hour. This Thing indeed directly proves nothing; but all things considered, is very fulsome: and the more so, because the Bishop has given no Account, either of his Acquaintance with him in general, or of the particular Reason of that Visit, at a time that leaves no much ground to suspect the world.

The next Particular that deserves your Lordships Consideration, is, the letter to Dobbs, found among the Bishop's Papers when he was taken up, and found now to be sealed with the same Seal with that letter taken upon the Bishop's Servant, which he confest he is his own Hand-writing. It is not indeed proved, that the letter to Dobbs is the Hand-writing of the Bishop: but any body that reads it, will easily be persuaded, that it is not the natural and ordinary Way of Writing of any Person, but a disputed Hand like a Print; except only some few letters which escaped the Care of the Writer, and are very like those of the Bishop. But after a long Examination, which has taken up a great deal of your Lordships Time, it appears plainly, that the Seals are the same, and that the one could not be counterfeited from the other; because, the first letter was originally taken with the Seal broken, and was in the Possession of the House of Commons when the second letter was taken upon the Bishop's Servant. It appears plainly by this letter to Dobbs, that this Person who wrote it was in a secret and dangerous Correspondence; that he was an Acquaintance of Mr. Jobbun, or Kelly; that he received letters by his Hand, and wrote an Answer in his Hand. How far all these Circumstances, taken together, prove the Bishop to be the Author of this letter, I must submit to your Lordships Judgment; for my part, I think they do; especially considering, that the Bishop has given no Account of it, which he ought to do by Law, of a letter of this Nature: it plainly proved upon Oath to have been in his possession. I now beg leave to proceed to that which is the principal Charge against the Bishop, the dictating to Mr. Kelly the three letters of the 20th of April; sig'd, one, by the Name of Jones; another by the Name of Higg:is; the third by the Figura, 1778; which the Decyphers explain by the Letter R. The first, directed to Mr. Clover, or Dillon; the second to Mr. Hodgson, or Lord M.: the third, to Mr. Jackson, or the Presi-
dent.

It may be proper, before I take notice of the Proofs which shew that the Bishop did really dictate these letters, to take notice of an Objection with respect to the Time: The letters are dated the 20th of April, and the Bishop has produced five or six of his Servants, who swear, that about that time he was so very ill, that he could not write himself; and that he did not give any Person to whom he could dictate these letters. Now in answer to this, it may be replied, that it does not appear, that all the Servants which the Bishop then had, were produced before your Lordships; and you cannot but be sensible, that trustworthy Practices are commonly carried on in a very secret Way: and it appears, that the Bishop's Correspondence with Kelly has been so carried on; for the there is plain Evidence, that they were frequently together, and that they were acquainted is confess'd, both by the Bishop and Kelly, and that several of the Servants produced, would confess, that they had seen Kelly, or so much as ever heard of the Name of Jobbun, which was the Name by which he went. In the next place, none of these Witnesses proves, that the Bishop was so bad that he could see no Company, till about the 16th or 17th of April; and it's very probable, that the letters must have been dictated so long, as not longer, before the 20th on which they are dated: because Kelly was personified with the Bishop, which is a Work of Time and Care; and perhaps after all, they might be designed post-dated, that the Bishop finding himself going into a great Fit of the Gout, might have all that to please which your Lordships have heard, if the Matter should ever be called in question.

Upon all these Considerations, I cannot but think it very clear, that the Bishop might have dictated these letters: We are now therefore to examine whether he did or did not.

The first Thing that brought any Light into this Matter, was the small Accident of a Dog being sent from France, which, by the intercepted letters appeared to be sent to one that went by the Names of Jones and Higg:is. When Mrs. Barnes was examined before the Council, upon Kelly's being taken up, it appears plainly she was upon the Referre, and would confess nothing that the thought might tend any way to hurt Kelly: but being so'd about this little Dog, who it was for, the readily answered, that Kelly had told her it was for the Bishop of Re-
clester, which she has since confirm'd by Oath at the Bar of this House. This little Accident, not suspected at the time of the Discovery to be of any
any Consequence, has given Occasion since, to look so many Circumstances, as plainly bring the matter home to the Bishop. And indeed, if all the particulars in the intercepted letters be compared, with those things that are in proof with respect to the Bishop, I believe your Lordships will be of Opinion, that they cannot all belong to any one Person in the World besides himself. In the first place, since it's proved that Kelly wrote these letters, the person who dictated 'em must have been an Acquaintance of Kelly's; it is confided on all hands that the Bishop was so. In the next place, the implication of the intercepted letters is, that the person that went by the Name of & Ellington, was a Clergyman; so far still agrees to the Bishop. Again further: this person is mentioned in all the intercepted letters, as a person of great Consequence and Credit, upon whose advice the party very much depend'd; and indeed the very Air and Manner of writing the three letters, plainly shew, that the person who wrote 'em, thought himself so; this also agrees with all the other Discoveries about the Bishop. Were there no other particulars but these, it will be hard to imagine that they could well belong to any other person. But if you consider further, that this & Ellington came to Town such a Day of the Month, went out of Town such another Day of the Month, came back again to Town such another Day, was himself sick at such a time, that his Wife was sick at such another time, and that she died at such a time; all which are in Evidence with respect to the Bishop; if we do, I say, consider all these Circumstances together, it will plainly appear, that they can belong to no other Man in the World but the Bishop.

After this, I humbly apprehend nothing need be said, however I beg leave just to mention something relating to the letter that was taken upon the Bishop's Servant; by the whole Air of which letter, it looks as coming from a person who did not esteem himself to be innocent, but who thought, that nothing could be legally proved against him: and therefore there is not one Word of his Innocence in it, which is the first Thought that must naturally have come into the Head of any one that really was so. He writes wholly with the air of a Man that had been used to Intrigues; speaks of the Concerns that his Friends should have for him and the Cause; disourses largely about the Kind of Evidence that was a-against him; takes notice in particular what can not affect him: If (says he) the Narrative relates chiefly to Neyne's Sample's, and Layer's affairs, so far it cannot affect me; for I never heard of the Names of either of the Thieves, till after this Plot broke out. It is plain by these Words, that he did not then know what was in the Narrative against him; but he is very sure, that neither Neyne nor Sample, nor Layer could affect him. Could an innocent Man have thus distinguished, and could not they have affected him as much as any body else, if he really was innocent? Nothing can affect such a Person but Forgery, and that may come from any Quarter: but in the whole letter he does not express the least Sufcitation of Forgery; and yet, as I said before, this is the first thought that must naturally have come into the Head of an innocent Person, because nothing but Forgery could do him any harm. I would only just beg leave to

hint at this one thing more: That as he says, that these three Persons could not affect him, because he never knew 'em; so accordingly they have not affected him, or said any thing of their own Knowledge about him; which is one good Evidence, that what is said against him is not forged but real.

I am afraid that I have troubled your Lordships too long, tho' with a very imperfect Representation of the Justice of this bill; and therefore shall be shorter upon the next Head, which is the Expedience or Prudence of it.

And this has been when a call legal Evidence against the perpetrator, your Lordships, I take for granted, would not easily have gone to this extraordinary Method of Proceeding: for tho' it cannot be doubted but that the Parliament have this Power, whenever they think proper to make use of it; yet, I do agree with other noble Lords, that it is a Power not fit to be used, but where and when the Publick Good requires we should use it, which I humbly conceive is the Case at present. A most dangerous Plot against the Government has been discovered: a great number of letters and papers relating to it have been laid before the two Houses of Parliament: these have been printed and published by Order of both Houses: The Eyes, not only of our own Country, but of all Europe, are upon us, to see what we will do. This the Evidence of a Plot in general, be as clear as the light; and the Evidence against several particular Persons very plain; yet, as our laws are, it is not what we call legal Evidence: The Parties concerned will make no Confession, and we have not the Methods used in all other Countries, to extort Confession from them. What then? Shall we see our King and Country in Danger, and do nothing for them? Shall Conspirators go on with total Impunity, only because they are obstinate, and artificially screen themselves behind the law? I doubt, my Lords, that if this prove the Case, we shall appear ridiculous in the Eyes of all the World: That our Friends and Enemies both at Home and Abroad will think, that we have no Zeal for the Preservation of our King and Government; and if once they do think so, your Lordships cannot but be all sensible, how much this should encourage our Enemies and discourage our Friends, and bring us into that contemptible State, in which no Government was ever long supported.

But a noble Lord has been pleased to observe, that the best way to serve the Government, is to do popular Things, and by that to procure the love of the people. I perfectly agree in this with the noble Lord, and cannot but be humbly of Opinion, that this Government has done so, as far as it has been able: Our Religion has been preserved; Justice has been equally administered to all sorts of People; none of our Rights or Liberties have been invaded; we have lived at Peace at home, while many other Countries have suffered all the Miseries of War: these are, or I am sure they will be esteemed, popular things; and if from other things, which might have been for the Good of the People, have not been done, it has been the Fault of those that complain most, and not of the Government. And if there be Dit-contents now in the Kingdom, it's plain that the Foundation of 'em was laid long ago, by the Enemies to our present Happy Settlement: For I am persuaded, that the Dit-contents were higher
and greater within four Months after the King came to England, and shewed themselves much more, in a number of Rebellious Riots and Troubles, than any thing that appears at present; and yet nothing then could be objected to the Government, but that some Persons were not preferred, who both before and since have made it too plain that they were not fit to be trusted.

But as it is the Duty of those in Power, to do all the popular things they can, so I must here leave to observe, that it is the Duty of all the Subjects (and the greater the they are the more is their Duty) to put the best Interpretation upon the Actions of the Government, that things will be, not to misrepresent, nor to put false Colours upon things; and much more not to invent lies and fanders, and disperse them up and down the Kingdom, in order to alienate the Affections of the People. These things have been done, and done with great Care and Diligence, and by some true, this would take it very ill to be called Jacobites. These are the chief Causes of the Disaffection among us, and indeed of all the real Grievances we labour under. Is the King forced to put the Nation to Charges, to keep up a greater Number of Forces than otherwise would be needful? It is entirely owing to this Cause. Are our Debts not paid? Is our Credit not so good as we would be glad to have it? Let this artificial Raising of Distresses once cease, and these things will quickly mend of themselves; Indeed, were this time for it, I think it might plainly be proved, that the Debts we labour under had never been contracted, but for this absurd disinterested Honour: Nay, it is to this, that we entirely owe the Danger we are in from this very plot; for it's plain from all the Intelligence we have about it, that it was carried on upon the Confidence, that all disinterested Persons were Jacobites: and tho' the Conspirators did in this greatly deceive themselves; yet it is certain that they built their Hopes upon this.

But it's further said by the same noble Lord, that this extraordinary way of Proceedings will not procure Friends to the King; but will rather anger and provoke, and so hurt his Interest instead of helping it.

To this Answer, I do indeed think, that many People will be angry; as I hear that the Jacobites thro' the Kingdom are: A plain Evidence of this, that they do not think that the Friends of King George are worrying one another; nor would they not be angry at this. That to most defile their liberties, we become, upon this Occasion, the great patrons of liberty; as indeed they have been in a great measure ever since the Revolution, when any thing has been propos'd for the Support of the Government. No sooner were their Schemes of Arbitrary Power in the Time of King James overthrown, and a new Government setted which they did not like; but they, in order to defile it, set themselves against every thing that the Government could be for it's Defence, under the Colour of liberty; that is, they defied to have their own Hands as loose as possible, to hurt it; and the Hands of the Government as much tied up as possible, that it should not be able, either to hurt them, or defend itself. Thus at present, they clamour against the Additional Forces, tho' established by Parliament; and against all Methods, either to discover or punish the Conspiracy. And they judge right in this for their Cause; because, if they could have carried these points to their mind, they might then be more free in carrying on their Plots, and with less Danger put them in Execution. For these Reasons I take it for granted, that all these People will be angry; but I cannot but humblely of Opinion, that it is much better they should be angry with us for defending ourselves, than that they should first forsake us, as Fools for neglecting our Defence; and then be able more easily to undo us.

As to others, that possibly may be displeased at what we are now doing, I would hope, that a little Time and consideration will set them right, and convince them, that it is not only just, but all things considered necessary to be done; because, if the Parliament do, upon this occasion, throw their Zeal in the Defence of the Government, it will animate and give Courage to the Friends of it both at home and abroad. Foreign Powers will be apt to court the Friendship of a Prince, at the Head of a mighty Kingdom; if they see that he and his Policy are like to continue there: All the Affairs of the Kingdom, which respect them, will be managed with more Care, with more Honour, and with less Experience; and they will be inclined, not to foment but to discover Plots, if they came to their Knowledge.

But on the contrary, if we give 'em any Rest to capacitate, that we look another way, they will quickly grow too, and thrive which shall be forward to help the Pretender to invade us in Blood and Rain. And as to the Subjects at home; I would only observe, that all this kind are apt to throw most Zeal for a Government, when they think it safe, and like to fland, and be able to protect them: But to capacitate the contrary is a most dangerous Temptation to the Frailty of Subjects as has been seen by the Experience of all Ages. And therefore I hope, that your Lordships will, by your Unanimity and Zeal in this matter, and actually offering to, that the Danger does and shall lie in opposing, and not in defending the present Government.

I hope that what I have now been saying, has convinced your Lordships, both of the just and Prudence of this Bill; give me leave to observe, that your Moderation has been very great too, both in giving so full and free a Hearing, and in making the Penalties so much less than the Crimes deserve.

It is now above a Year since the Plot was first discovered; a Plot of a most dangerous Nature, to sicze the Perfons of the King and Prince, and to bring in a Paphit Pretender upon us. The Execution of which, was to be begun by seizing the Prince, and attacking the City of London on all sides; and was then to spread and fall into all parts of the Kingdom. I need what Consequences; what Murders; what Plundering; what Burnings must this have caused? Whether it had been the fies, the very Attempts must probably have occasioned the Sacking and Burning of the City. The utter look at once of all this which is not obvious to me: But it is the same as the Murder, and the Murder of infinite Numbers of People: The Abominations, and Amazement, and Undoing of almost all, but of that vile Wretches who would have had the plundering of all sides. If it had gone on, how many of the Noble Lords that I now fee, would have been
before this in their Graves? But I forbear going any further in this Tragical Representation, and define only to observe, That tho’ it has been discovered above a Year, how far the Fruits of it are yet known: Do as usual to your Lordships Confirmation, who know the State of the World very well, whether there be any Country in it either Bond or Free, which, had they discover’d but a fifth part of what we know of a Plot of this Nature, would not in a Week’s time have found means to get to the Bottom of it. However, my Lords, I still commend your Moderation; and do hope, that we shall never find Reason to repent of it, and that this little which is now doing, will be a Warning to Conspirators, not to provoke further the Patience of an injur’d Nation.

I doubt not but upon this and all other Occasions, your Lordships will be ready to stand by a wife, a good, and a merciful Prince; and that you will, according to your Oaths, defend him, against all Treasons, and Traitorous Conspiracies whatsoever.

And in the last place, give me leave, as a Christian and a Protestant Bilhope to hope, you will do your part, that a Popish Pretender may never be for the Head of this Protestant Church: One, who must think himself bound in Conscience to destroy it; and instead of that pure Religion which they now enjoy, bring in horrible Superstition and Idolatry, Nonence and Tyranny; attended with all the sad Calamities, which Popish Princes always have brought, and always must bring upon Protestant Countries.

After whom the Duke of Wharton spake as follows:

OME Words which have fallen from the Reverend Prelate, who spoke last, have made it, in some measure, necessary for me to trouble your Lordships with the Reasons that induced me to differ with him in Opinion, and to give my Negative to the Bill now depending before us.

If I don’t misunderstand his Lordship (and if I should mistake his Meaning, I hope he will set me right) he was pleased to say, That Peronsos without Doors would be apt to call different Reflections on the particular Behaviour of every Lord this Day: That those who were for the passing of this Bill, would be accused of Malice and Partiality; and those who were of contrary Sentiments, would be branded with Disfavour to the present Happy Establishment.

For my Part, I am far from thinking, that Conspirations of this Nature will have the least Weight with any of your Lordships; and am very certain, that every one, who gives his Vote on this important Occasion, has attended, with the greatest Care, to the Evidence that has been given at your Bar, which is the Foundation of this Day’s Debate.

The Proof that have been brought to support the Charges, and the Bishop’s Defence, are to be thoroughly consider’d; and when your Lordships proceed according to the Rules of Justice, you will not fear, nor value, any Conferences which may attend the discharging of your Duty.

So far I will venture to affirm, That the best Way to shew our Zeal to his Majesty, and the present Government, is, To act in all Cases, both in our Judicial and Legislative Capacities, with that Honour and Impartiality, as ought to flourish in this great Council of the Nation.

I could have wished the Noble Lords who have given their Reafons for the passing this extraordinary Law, would have entered into the particular Circumstances of this Case, and considered it finely on its own Merits. I am sure I am speaking on that Head, I cannot but take Notice, That they have wandered from that (which ought to have been their only Confederation) into learned Discourses on Bills of this Nature in general.

I shall not trouble this House with any Arguments against Attainers. Many Lords, of greater Weight and Abilities than myself, have already spoke fully to this Point in the preceding Debates.

I shall only so far agree with the Reverend Prelate, who spoke before me, That it is proper, that such a Power of punishing by Bill, should be vested in the Legislature, to be exercised on extraordinary Emergencies: But then I must add, If ever that Power is abused: if ever it is employed to destroy innocent Persons, it is evident, That the lives, liberties, and Fortunes of every Subject in Britain are in the utmost Danger, and liable to be sacrificed to the Fury of a Party.

It has been admitted, That every Bill of Pains and Penalties is to stand upon its own bottom; and that the passing of one Act of this Nature, is not to be brought as a precedent for the suspending, or suspending, unless there be convincing Evidence to enforce each Case. And therefore the proper Confederation now before us, is, Whether the Evidence offer’d against the Unfortunate Prelate, is sufficient to induce your Lordships to believe him Guilty of the heavy Crimes of which he stands accused?

My Lords, I shall take the liberty of considering the whole Proofs that have been brought on this Occasion, both by way of Charge, Defence, Reply, and Rejoinder; and tho’ I own myself very unequal to this Task, yet, since no other Lord, who could do it much better, has undertaken it, I think it my Duty as a Peer, and an Englisman, to lay it before your Lordships in the best Manner I am able.

The Method I shall observe for the more clear Stating of the Case, shall be to lay every particular Branch of Evidence before you, and to disinguishe the several Parts of the Accusation, and consider them separately, to avoid Confusion, and to be the more exact in what I have to offer.

I hope, I shall have your Lordship’s indulgence for taking up so much of your Time as this will require: But I love you. I shall endeavour to be as brief as the Nature of the Thing will admit, and will intrude on your Patience as little as possible.

I must also define your Lordships will pardon me, if I repeat several Arguments that have been used by the Council at the Bar; and if I even mention some Things which fell from me in the Debate on Mr. Kelly’s Bill, whole Case is very much interwoven with the precedent; so that it is almost impossible to avoid it.

Besides the farther, I cannot but say, That those Crimes plainly proved against the Bishop of Rochester, his Sacred Function and Station in the Church would be Aggravations of his Guilt: But, as this is certain on the one hand, so on the other, your Lordships will require very clear Demonstration, before you can think it possible for a Bishop of the Protestant Church (who has fig-
nalized himself in Defence of the Reformation, and the only one of that Bench where he had lately the Honour of sitting, that ever wrote in fa-
our of Martin Luther) to engage in a Conspiracy for introducing Popery and Arbitrary Power amongst us.

My Lords, the Council for the Bill opened the Charge with accusing the House, That it was only to be supported by producing of decyphered letters, full of Reticent Names and Cant Words: They were so very fair as to confess, they had not one living Witness that could charge the Bishop with any thing, nor even so much as a letter under his signature on the Fifth View, this Manner of condemning, on such kind of Evidence, ought to require our utmost Caution, left we should establish a Method, which our Enemies may hereafter take to destroy the greatest and most innocent Subject in the Kingdom. Mr. Warrig cited two Cafes, which he would willingly have us receive as Precedents, to justify the admitting of circumstantial Evidence: The one was, the Cafe of Stibon, who was condemned on Circumstances only. But, my Lords, this was before the Time, that this Cafe, which requires Two Positive Witting Wits, and nothing could induce the Legislature to pass that Law, but a thorough Conviction of the Danger that might attend the admitting of any Proofs which were not positive or certain.

The second Cafe he cited, was that of Harvig the Murder of Dr. Cibom; and the learned Gentleman tells you, that it was the putting out of a Handkerchief that led to the Discovery of that Murder. It is very certain, Circumstances may lead to the Discovery of Evidence; but must be well supported before they can be converted into convincing Proofs.

The first Piece of Evidence that was offered at the Bar, was the Extracts of Letters from abroad, which this House seems, in some measure, to have declared to be immaterial, when they did not so much as desire to see Copies of the whole letters, nor the Originals; and even admitted one to be read which was Anonymous. But it will not be improper, before I come to the whole Cor-
respondence the Bishop of Rochester is not named. And therefore I cannot see why they took up our Time with reading Papers quite foreign from this Cafe; especially since every Body allows there has been a Conspiracy, which is the only Facts to be gathered from this Correspondence.

The next Point which was attempted to be proved, was, That Captain Holford went to fetch the late Duke of Ormond, and was at the Deeney with the Bishop before he embark’d, There are also the Bishop’s Cafe-Stores, signed by this Gentleman to his Lordship, which were read, and are only Appointments for Visits, but mention nothing of this Defign; and, I think, there was a Coachman, that proved Holford was an Hour with him some Days before he left London. This, my Lords, was opprised as a Matter of great Importance: But your Lordships must re-
member, that the suppos’d Defign of Holford’s bringing the late Duke of Ormond into England, is only proved by the Hearsey. One of the Crew be-
longing to the Ship in which he went, has depos-
fed, That it was the Common Report at Bilboa, that Holford came there on that Errand. How far common Fame is to prevail, I submit: But if this Hearsey were true, is every Person who was an Hour with this Gentleman before his Departure, supposed to be party to this Pro-
ject? And what a brain’d Conjecture is it to inunlate, the Bishop of Rochefou, knew of his Intention, because he received a Visite from Hal-
ford, who was a Tenant under his Bishoprick? And this is the more extraordinary, since it has not been so much as pretended that any Cor-
respondence has pulled between the Reversend Prelate and the late Duke.

They then produced letters directed to one Dunwell, which were decyphered. And Mr. Hills was examined to prove, that they were rightly and truly illegible.

My Lords, it very well defers your Lord-
ships Consideration, how far this kind of Ev-
idence is to be admitted: It has appeared to your Lordships by the Oath of Mr. Hills himself, that it is an Art which depends upon Conjec-
ture; for this Gentleman has confessed, that every Man is liable to a Mistake in this, as well as in other Sciences. He tells you, that he and his Brother Decyphers varied in One or Two Influences: He allows, that the Chaffus, which they were to have in those letters, might alter the Sense of them. And, therefore I cannot but think, that an Accusatian grounded on such Proofs, is uncertain and precarious.

The Person who is the Decyphers is not to be confuted, and what he says must be taken for granted, because the Key cannot be produced with Safety to the Publick; and, consequently (if his Conjectures be admitted to be Evidence) our Lives and Fortunes must depend on the Skill and Honesty of Decyphers, who may with Safety impose on the Legislature, when there is not Means of contradicting them for want of seeing their Key.

My Lords, in the Cafe of Coleman, the Key was printed, as has been well observed by the Council at the Bar; and I am very much surpriz
ed, that Gentlemen of such Abilities and Integrity, as the Members of the Secret Committee (who, in another Place, were so exact as to print the Provis Originals with the transcribed letters, that the Lectur’d might see how just and candid the Proceedings of the Plot were) did not, for the Satisfaction of the Publick, permit us to see the Key in print, on the Truth of which depends such a Chain of Consequences.

I own myself entirely ignorant of this Art: But, as I should be very far from condemning a Man on my own Conjecture, I should much less do it on the Conjectures of others.

The greatest Certainty Humane Reason knows is, a Mathematical Demonstration; and were I brought to your Lordships Bar, to try’d upon a Proposition of Sir John Hoo wers, which he ought should sterve to the true, I would appeal to your Lordships, whether I should not be unjustly condemned, unless he produced his De-
monstration, that I might have the liberty of en-
quiring into the Truth of it, from Men of equal Skill.

I cannot think any Man will allow Evidence of this Nature to be good: But if in this Cafe re-

tecting to the decyphered letters to Dunwell, your Lordships should admit it, there is nothing men-
tioned in them that can affect the Bishop, nei-
ther is he at all nam’d in them, but they are only brought to prove the Conspiracy in general. The
The Examinations of Mr. Nyeane are the next Points that are laid before your lordships: And indeed, I must do the Gentlemen at the Bar the Justice of saying, That they forbore mentioning any thing of them, when they open'd the Charge. They were so sensible that such Proofs could not have the least weight to affect the Bishop, that tho' in the Cafe of Mr. Kelly they were produced against him, as very material to support that Bill, yet they did not think proper to name them against the Bishop; which, I am thoroughly persuaded, is owing to what appeared at your Bar; and the Consideration of Mr. Bingley, and the Universal Opinion which every Perfon seemed to have of the Villany of Mr. Nyeane's Transactions.

My lords, These Examinations were never signed by the Perfon, neither was he ever examined to them upon Oath: So that they were of Consequence, and he a Perfon of Credit, they could not be admitted to affect any Perfon whatsoever, in any Court of Justice or Equity. I don't mean, That they could not be read according to the strict Rules of the Westminster-Hall; which is admitted on all Sides they could not: But I dare affirm, that no Credit can be given to 'em on any Account what'ever.

The Perfon was closely confined, and consequently in the Hands of the Government; so that he was at that Time under the greatest Apprehensions, which might, in some Measure, prevent him from speaking Truth, with that Sincerity and Candour of which every Perfon ought to be Matter, when he is examined on Matters of such nice Nature.

Tho' these Papers were entirely given up by the Council for the Bill, yet the Extract of them was read, and they are the very Foundation of this Charge; and if they be insignificant, the whole Accusation fails to the Ground: For the whole Proof of the Bishop's disloyalty to Mr. Kelly, depends on Mr. Nyeane's bare Affirmation.

The whole of what Nyeane says, or is supposed to say, is, That Mr. Kelly told him he wrote the Bishop's letters for him: Mr. Kelly denies it, and Mr. Nyeane was so confident that he had been guilty of many Crimes, that he endeavoured to withdraw from Justice, and the Providence of God, it is said, intercepted him.

My lords, if you will consider the Improbabilities of this Evidence, altho' it were upon Oath, and signed by him, it cannot be supported. He tells you, That he was intrusted to draw up Memorials to the Regent: Yet none of those have been produced: And yet it is apparent the Copies of them might, with Ease, have been obtained, if he had been as thoroughly preferred to deliver them, as he was to declare he wrote them.

These Memorials, he says, were written by the Order of Mr. Henry Watfion, whom he takes to be the late Earl Marshall: And I am certain your lordships did not think that Fact material, when you came to a Resolution, That the Bishop of Rochester should not be at liberty to sile, if Enquiry was made of the said Nyeane, or if he gave any Satisfaction to the Lords of the Council, touching that important Fact of Watfion's, whom he ought to be, to be Earl Marshall, lying with him several Nights.

It was very well observed by a learned Gentleman at the Bar, That no body can believe the late Earl Marshall would have reposed so great a Confidence in a Perfon, who was entirely a Stranger to him, and of such little Note; and the Jacobite Party must be in a low Condition, when they make ufe of such a Creature to write Papers of that Importance.

There is so much Improbability in this and other Points, and so much Contradiction in several Parts of his Examinations, that they appear to me, and must to all reasonable Men, as the Dichotomies of Fears, and not agreeable to Truth.

He mentions, That the Reverend Prelate (for faith I may call him) had some Favours offered him by the Court; but that cannot be true, and must be added to the rest of these Aburdities.

But, my lords, what in my Opinion clears up all these Matters, and makes it impossible for me to give the least Credit to this, or any other Part of the Charge, are, The several Testimonies of Bingley, Skeene, and Stewart.

I must obverse to your lordships, That the two first Persons, Bingley, and Skeene, are actually now in separate Custodies; and consequently could have no Communication one with another. The Third is at Liberty; but his Testimony is so warmly supported by Mr. Gordon and Mr. Kyngfoth, that no doubt can arise as to the Veracity of his Narrative.

The Gentlemen, who are in the Hands of the Government, are under Hopes and Fears; and therefore, it is certain, when they speak a Language, which, perhaps, may be disagreeable to those on whom they at present chiefly depend, it must be the Spirit of Truth that prevails.

Mr. Bingley was before us in the Cafe of Kelly, and was also examined at the Bar of the House of Commons, tho' not upon Oath; and tho' he has been more severely treated, as he told your lordships, and more strictly confined since his first Examination, yet he has perjured in his Story: And tho' he was so long at your Bar, and so many Questions put to him, yet he never varied in any one Circumstance, but appeared confident thro' the whole Course of his Behaviour.

I shall not detain your lordships with recapitulating his whole Evidence, for I did it very fully on a former Occasion. But your lordships will remember, he told you, Nyeane abounded in Money, which Nyeane said (after he was apprehended at Deal) an Honourable Person (and on this Occasion, I hope, I may name him) Mr. Walshe gave him: And more particularly, he mentions 50l. which Nyeane said he received the Night before he went to France.

Bingley told your lordships, That Nyeane had offered him, to be sent to meet this Honourable Person in the Stable Yard at Chelsea: And, my lords, the Evidence, which he was going to France, was, To discover some Secrets relating to Cyphers, which he would have engaged Bingley to have done for him; and particularly, to get them, if possible, out of Mr. Kelly, Whose, he said, could be obtained, would be of great Advantage to him.

That Nyeane had declared to him, He would be even with Mr. Kelly, before he was aware of it, or Words to that Effect: And that Mr. Kelly always seem'd averse to any Acquaintance with Mr. Nyeane, of whom he entertained a mean Opinion, That Nyeane's Father refused him Money; which makes it highly probable that his Poverty was the Occasion of his Villany: And that when he was taken at Deal, he had declared to him, Mr. Walshe expected to find the Plot about him;
and since Mr. Walpole could not, he must make one for him.

Nevse told Bingle, That this Honorable Person had "own'd Definition to the Bishop of Rochester, by saying, He would pull down the Pride of this Haughty Prelate; which is sufficient to convince your lordships how little Regard ought to be had to the Hearlay Evidence of so fickle a Wretch.

Mr. Bingle says, That part of this Account he had given to the lords of the Council: And I could have wished, that his Examination, as well as some others to the fame purpose, which were taken about the same time, had been laid before the Parliament.

Mr. Skenne, who is also in Cuttedy, has depos'd, That he lay in the same House with Neyse, and had some Conversations with him.

That Neyse had told him, What he had said of the Bishop of Rochester was entirely fals." And that Mr. Walpole had offered him a considerable Annuity to turn Evidence; and had given him Information before he was called to the Lords, to not reveal it; which was to be paid him, and while he was to desist from making a declaration, and threaten'd him with Newgate if he would not comply.

Skenne says further, That Neyse swore (and I hope the Reverend Bench will, in such a Case, per- mit mee to repeat the Words) by God, there were two Plots: One of Mr. Walpole's, against the protet'g the Lords, and one of his, to bit Mr. Walpole of Money: And this seems to be the only Time that ever Mr. Nevse avow'd any thing upon Oath.

To convey the World, what a Creature this Neyse was, he tells Skene further, That once at "Lord Townhead's Office, he had a great Instructu'ziation to bear fable's the Chancellor of the Exchequer. He tells you, That Neyse had wrote a Paper to declare, That all he had said of Lord Orrery was fable.

My Lords, The next witness was Mr. Stewart, who was unfortunately in Cuttedy when Neyse was brought to Town from Deal.

Stewart says, That he flept the second Night with Neyse: That Neyse had told him what he had said of the Bishop, was falsy; and that Mr. Walpole had offered him a great Sum of Money, if he would swear to what he said, and turn Evidence, which he declared he could not do.

That Mr. Walpole had taken him into another Room before he was examined, and told what Surprizons he would probably be offered, and what An- swers he should give.

He says, That Neyse told him also, That he had like to have kild Mr. Walpole, and 6o put an End to the Plot: And that Mr. Walpole had given him a Paper of Directions, which he was to unweel in order to be a Witness against the Protet'g Lords.

As a Confirmation of his Testimony, Stewart says, He told this to Mr. Gordon before Mr. Neyse was drown'd, and to Mr. Knyfeau before the Meeting of the Parliament.

Mr. Gordon confirms this Part of his Evidence, and afirms your lordships, that he had heard it from Stewart before the Death of Neyse. And Mr. Knyfeau, a Gentleman of an undoubted Char- acter, lately a Member of Parliament for Slocoft- bury, has afurred your lordships, That he was ac- quainted with Stewart's Account of Neyse before the Meeting of the Parliament: And adds this Circumstance, That when in the Appendix he laid these five Quesitons printed, he shewed them to

Stewart, who feem'd rejoicy'd, and said, 2nd last, Sir, what I told you is true.

Such concurring Testimonies from Persons kept to separate, and who are speaking against their own private Interest, must have the greatest Weight, and must at least prevent any rational and impartial Person from giving the least Credit to the bare Hearlay of this Philip Neyse.

If any doubt could remain, as to the Validity of this Testimony, it is sufficiently confirmed by the Perons brought to disprove it.

The Chancellor of the Exchequer himself does not pretend to deny that Neyse told these Things, but only adds other Circumstances to convince you of Neyse's Villany, and affures you, That at the Time he was receiving Favours from him, he was thoroughly convic'd he intended to cheat him, which was the Occasion of his being apprehended.

He own'd the Transitoryness between them before Neyse went to France, and particularly the Money mention'd by Bingle, which proves that Neyse must have divulged these Secrets since they could not come from Mr. Walpole, and He and Neyse only were privy to it.

Mr. Walpole has thrown your lordships the foul Draught of the Questions mention'd by Stewart; and he denies that part of Neyses Declara- tion relating to the Instructions given him before the Examinations, he owns, he was twice alone with him, once the first Night of his being brought to Town, and the second time, when he was拖延 the Paper of Directions, which is the Foundation enough for Neyse to frame so notorious a Falshood.

The Witness's brought by the Council for the Bill, to the Character of Mr. Bingle, feem rather to confirm it than otherwise; and all agree, they never heard any thing against his Morality.

They indeed have said, he bore the Character of a Jacobite, and suffered for having disperited a Liel- bel; But Mr. Baron Giberti, who was his Judge when that Punishment was inflicted on him, has told your lordships, that he was not tried at his Trial, and that neither Perjury nor Forgery were ever laid to his Door.

The Punishment he suffered was the Pillory, yet it is the Crime, and not the Punishment, that makes the Ignorancy; and for this I can appeal to the learned Judges.

In order to destroy the Evidence of Mr. Skene, they produced one Powder, who tells you, That Skene had revealed many Secrets to him relating to the Plot; and particularly of a Military Cheif, which was collected to carry on those fo called Defile's, and support the Jacobites; But I presume every body who heard the two Perons at the bar, could not but remark the Scoldinges with which Mr. Skene denied these Affacements, and the Confonation with which the other affirme'd them.

Mr. Powier seem'd to drop something which in- tirely destroys any Credit that could be given to him, by saying, That he had owed to Mr. Skene, that he was a Frind to this Administration, and yet has sworn, That after such a Declaration, Skene had still perillery in his Story, and revealed some Part of this Intelligence to him. How

far is this probable, your lordships are the best Judges.

Mr.
Mr. Panier goes further, and tells you, That Part of this Conversation happened in St. James's Park, in the presence of one Defuer. This Defuer was in the Hands of the Government; and I can't conceive why we have never seen him or his Descriptions, when it would have been so easy to have brought this corroborating Witness to Mr. Panier's Testimony.

I can't but think, That the not producing this Man's Evidence, is a strong Circumstance to convince your Lordships he did not agree in the same Story with Mr. Panier.

They also produced Mr. Steene's Attinder for the Preston Rebellion: But there have been many Acts of Grace since, so that he is capable of being an Evidence: and there has nothing appeared to traduce his Character as a Man of Morals.

In order to shew your Lordship's, that Nynne could not possibly make those Confessions to Mr. Steene and Mr. Stewart, the Counsel for the Bill maintain, That they will prove Nynne and the Prisoners were not together after the first Night.

This, my Lords, would be very material; but I think it appears, by the proofs brought to support this Affirmation, that they frequently have conversed one with another.

The first Witness they call'd, was Mr. Crawford the Meiller, in whose House the Prisoners were in Cuffsoy; and my Lords, I can't but say, if it were very odd, they should bring a Man to swear he had done his Duty: He has told your Lordships, That Lord Townsent had given him Orders, that Nynne should be close confined; and if, after that, it should appear, that he had neglected such Directions, there is no question, but that he infamously, and detrimentally, would have been removed out of his Employment.

This Meiller, in this Situation, tells you, That after the first Night: they never convers'd, to the beft of his Knowledge: That Mr. Steene call'd Nynne a Rogue of an Informer; and spoke in very hard Terms of him; which I indeed think it appears the Fellow well descriv'd.

Crawford's Legal Advice: He thought it quite improper, to speak of the Prisoners, to such an Imposition as this; that Nynne was a Rogue, and the other Persons, had been so much maltreated.

Mrs. Crawford, his Mother, swears, That, to the best of her Knowledge, the Prisoners were never together: That she kept the Keys of the Rooms herself, but used to send up the Maid, Hannah Wright, with the Dinner. — Your Lordships will observe, that both this Woman and her Son swear to the beft of their Knowledge only, and are far from positive Witnesses.

Hannah Wright, when she was first call'd, spoke in the same Language with them, tho' the afterwards recounted herself better.

When the Bishop came to reign, Francis Wood, Thomas Wood, and Mr. Ruffley severally say, That this Hannah Wright had declared to them, That she used to let the Prisoners converse together whenever she had an Opportunity, which was when Mr. Crawford and his Mother were out of the way; and that she used to stand upon the Stairs and give Notice, when any person came, that they might retire into their several Rooms, and the other Maid, whose Name is Christian, has deposed, That Hannah gave the Key of Nynne's Room to Stewart, and several times defined Stewart to go up to him, and that they were together an Hour or more. And when Hannah was called a second Time, she own'd she was turn'd away for Suspicion of having help'd Nynne in his Escape; That she had left Steene's Door open, who lay near Nynne; and that there was a large Hole in Nynne's Door, thro' which they might converse.

She said, That Nynne gave her a Paper, which she was to convey for him; but that it was taken out of her Bosom, and burnt by one of the Prisoners.

When Mr. Stewart said, That he fat upon Nynne's Bed the second Night, and lay in the Garret where there was a Partition, but a Communication between 'em, Hannah said, She could not be positive to that, but believes it true.

Mr. Crawford, when he was call'd to that Point, according to his usual Custom denies it to the best of his Knowledge.

Your Lordships will now judge, whether the greatest Credit is to be given to the Belief of a Meiller and his Mother, who are swearing that they did their Duty; or to the positive Oaths of Steene, Stewart, Gordon, Langton, Francis Wood, Thomas Wood, Ruffley and Christian, confirm'd by the Confession of Hannah Wright, when she came to be cross-examined and confronted.

This, my Lords, concludes what has appear'd at the Bar, relating to Mr. Nynne and his Transactions; and I am pretty certain, every impartial Body must agree with me, That so far from giving the least Credit to what he says, there have appeared fuch Circumstances in the Transactions which are now come to Light, that must make the greatest Caution necessary, before we believe any other part of the Charge.

Your Lordships will take notice, That Mr. Crawford confesses Mr. Nynne had the Use of Paper, and found two Sheets of it; and Hannah Wright owns the had a Paper from him, which was burnt by one of the Prisoners. This, my Lords, undoubtedly was the Paper relating to Lord Ormonde, mention'd by Steene in his Evidence.

My Lords, I am now coming to the great and only Foundation remaining to support this Bill, viz. Nynne's Examination: for it his Hearsey is not to be believed, which is the Proof that was offered to shew that Mr. Kelly was the Bishop's Secretary, and used to write for him: and particularly, That the Bishop dictated Three Letters, which were wrote in Kelly's Hand, and transmitted to France under Cover to Monfieur Gordon le Fils.

Then, as every Body must agree, the Bishop ought to be acquitted; and when hereafter this great Affair comes to be canvass'd by Poletery, it will flourish or fall as this Fact shall be strongly made appear.

They first read Pluquet's Cypher, and Mr. Pavordike attests it to be his Hand-writing.

When this Piece of Evidence was offer'd, People were at a loss to know what they intended to make of it, and little thought that they should be move'd to make use of it, standing for the Pretender in that Cypher, to shew that the Letter directed to Jexfor (one of the three before-mentioned), affirm'd to be dictated by the Bishop of Rochester to Mr. Kelly, was to the Pretender. I shall take notice of this extraordinary Proceed-
The Difference which they tell your Lordships they observe, between the Cut of the Letters in that of the 20th of Augby, and the others, is, That one is longer and slimmer, the other wider and shorter; which is obvious to any body that will look on both, and is a Confirmation of their Veracity.

The Prefaces of the plot might have proved this better, and not have been driven to the Testimony of a Meffinger to support this great Foundation of their Charge. It is notorious what Search they have made for Evidence of all kinds; and as Mr. Kelly was educated in a College, they might easily have found credible Witnesses to that point, if those letters had been wrote by him.

In the Cafe of Similitude of Hands, when it has been the most clearly and positively proved, as on the Trial of Colonel Sidney, it has been deemed to be cruel, to a Man should be convicted on such kind of Evidence; and the Attender of that unfortunate Gentleman was reverenced for that Reason.

In Sidney's Trial, his bankers swore, They used to pay bills drawn by him in the Hand-writing they were shewn, and no persons could contradict them; and yet the Sentence against him was a great blow to that Reign. The Great Lord Chief Justice Holt, in the Cafe of Copy, return'd to admit it; and the Lord Chief Baron Byron, on Franklin's Trial, follow'd that Example.

At present, give me leave to say, There is no Evidence that it is Mr. Kelly's Hand, and there is positive proof that it is not.——Therefore, we who live under fo equitable, just, and happy a Government, can never convict a Man, in these Days of Liberty, on such insufficient Conjectures.

They next produced the Three letters, which, they would intimate, were wrote by Kelly, and attested by the Bishop, which were mentioned by me before, and which were sworn by the Clerks of the Post-Office to have been sent going to France.

The Bishop defined to examine them relating to those letters being detain'd, and would suffer his known to be without the Mail: this he thought was proper for him to demand, since he seemed to intimate, that he questioned their ever having been in the Post-Office. But your Lordships would not suffer any Enquiry to be made on this Head, and voted it inconsistent with the publick Safety, and unecessary for the Defence of the prisoner, to permit any further Questions to be ask'd in relation to this important Affair.

The best Gentlemen, the Clerks of the Post-Office, have depauper further, That the papers produced, are true Copies of the Originals detain'd by them; to, at the same time, they confess, they never examined them after they had copied them.

They positively swore further, That the Originals were of the same Hand with the letter of the 20th of Augby, tho' they affirm this barely upon Memory, never having mark'd any letter in order to know it again: and one of them declare upon Oath, That he did not believe there could be such an Imputation of Kelly's Hand as could deceive him; tho' the whole House agrees That Hands may be counterfeited so as to deceive the Men that wrote them.
They own, they never compared two original letters between the 20th of April, and 24th of Augst, tho' they might have from a letter one Poll, without prejudice to the Government, in order to be more certain in their Evidence. Thus, my Lords, should this Bill pass, this great Man must fall by the Decree of this House must have on the History of these Clerks. Mr. Lewis, who has long serv'd in the Secretary's Office, tells us, that frequently letters and Sols used to be counterfeited: and, in a more particular manner, by one Bracket, who excelled so much in this Art, that he cheated many Perrons, and has so far deceived them, that they have not known his Copy from their own Originals. When these letters, thus attested, came to be read, they are in Cypher; so that it must again depend on the Honesty of a Decypherer, before they can possibly be made Treasonable.

Mr. Willes declares, They were truly decyphered according to the best of his Judgment and Skill; and more particularly, that the Number 1,753, which is to the third letter directed to Jackson, flands for the letter R. But when some Lords ask'd him a Question, which perhaps had he answer'd, might have proved him to be under a Mihtake; he refus'd to give an Answer, either in the Affirmative or Negative, for fear of revealing his Art. Your Lordships thought proper to prevent any further Crofs-Examination of this Gentleman, by a Refolution.

Mr. Willes says. He shew'd these letters decyphered to my Lord Trenchaud, before he communicated them to Mr. Corbire, who is a Clerk in the Secretary's Office; and then he says, That Mr. Corbire and he agreed.

Before these letters can yet prejudice the Bishop, the Case Names in them must be explain'd, according to the Key which the Proctors of the Plot have made; and in order to it we must believe that Jackson stands for the Pretender, because Mr. Plunket gave him that Title in his Cypher. Can there be a greater Absurdity, than to imagine a Person of the Bishop of Rochester's Capacity, should borrow a Nam of that Consequence, from so insignificant a Wretch as Plunket, who it does not appear ever faw him?

Indeed, the Counsel for the Bill did not read those letters against the Bishop, since they had no Proof of his dictating them, and they were only read, as an Account of the general Conspiracy. I must observe, it was a great Article of these learned Gentlemen, whenever there was a Piece of Evidence to which the Bishop objected, they constantly pretended, they produc'd it to the Plot in General; for they knew it could not be admitted against the Reverend Prelate: But yet when they came to sum up, they applied them to this particular Case; which is not allowable to that Candour that is necessary in such Occasions.

If your Lordships be of Opinion, that Kelly wrote them; that they were stop'd at the Poll-Office; that they were duly copied; that they were truly decyphered, and the Case Names explain'd; still this cannot affect the Bishop, unless it be fay'd upon him that he dictated them: Two of them are sign'd Jones and Ivingston, and to induce your Lordships to believe the Bishop was Guilty, as they affirm'd, they endeavour to prove those Names must denote him. And, in Order to it, they read some letters, affirm'd in the same manner, (as before mention'd) by the Clerks of the Poll-Office, to be his Hand-Writing: But first they read a Cypher taken upon Mr. Dennis Kelly, and sworn by the Meffenger Hutchins to be wrote by George Kelly.

I observe nothing upon this Cypher, but that the Bishop of Rochester is not mention'd in it; which seems very extraordinary, and is not a Proof of the Reverend Prelate's being in a Conspiracy. The letters they read of Mr. Kelly are of no Moment, and are only calculated to fix the Names of Jones and Ivingston upon the Bishop. They give an Account of his Lady's Death, the Bishop's own Illnes, his going to and from Bunrosley and in some of them, the Dog Harlequin is mentioned. It seems repugnant to Reason, that in a Treasonable Correspondece of this Importance, a Gentleman should venture his life to give an Account of the State of one Peron's private Affairs, and entertain his Friends Abroad with no other Bumf in such a Tract of Time.

In the letters directed to Mr. Andrews at the Dog and Duck, which are proved to have been received by Mr. Kelly, Jones and Ivingston are not name'd; and though in which we find them, were such as pass'd thro' the Poll-Office, and were attested like those under cover to Gordon le Fils.

It is not likely, that in a Transactio of so secret a Nature, Mr. Kelly should take such Pain to give such a Description as might give the Leaf Room for a Sufpicion that the Bishop was concerned; much less to have mentioned so many Particulars, as it may be fuppofed he has done, if there could be any Possibility of wretting the Meaning of Jones and Ivingston, and interpreting of them to mean Bishop.

William Webb, the Bishop's Coschan, is brought to prove the particular Times of the Bishop's being in or out of Town, in order to shew, that they agree with the Times mentioned of Jones and Ivingston in the intercepted Correspondence; and he refreshes his Memory by a Book of Memo- randums, which might have been destroyed, if it had been apprehended by the Bishop's Friends, that such Evidence could affect him.

What they next attempt, was to shew, That the Dog brought over by Mr. Kelly from France, and which Mrs. Barnes faw, that he once told her was for the Bishop of Rochester, was a strong Circumstance in the Name of Ivingston on the Bishop. My Lords, Mrs. Barnes, who is under the Custody of a Meffenger, is the only Witness to this Point; and what the says, is only Hearfay from Kelly: She owns that Kelly never told her so but once, and that was when the thought to have keep it for herfelf: And indeed, it might be barely an Excuse to prevent his parting with it, for he had promised to bring her such a Prefent before he went to France.

She owns, that to her Knowledge, the Bishop never faw the Dog, nor sent any Meffage about it; which seems to be very extraordinary, that if this Prefent was of such great Consequence, he should not have had Curiosity enough, at last, to fee it. An Aid Mrs. Barres, wrote from Birmingham, Surgeon in Paris, which says, That he gave this Dog to Mr. Kelly, for Mrs. Barnes.

Before I leave this Circumstance of the Dog, it is proper to observe another great Improbability, which is, in a letter wrote a few Days after the Death of the Bishop's Lady, it is said, Mrs. Ilving- ston was in great Tribulation for the loss of poor 4.
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Harlequin; and can it be supposed, that at a Time when the Bishop was in Affliction for the Death of his Wife, he would voluntarily discover so much Grief for such a Trifle?

It think this is sufficient to convince any Perfon whatsoever, that this Correspodence is of a very extraordinary Nature.

Mrs. Barnes has told your Lordships, That Mr. Kelly came from France the 11th of April.

My Lords, I am now come to the only Piece of Evidence that seems particularly levelled at the Bishop; which is, The Proof that has been given of the dictating those letters; and unless this be clearly and plainly made appear, I cannot conceive, that any thing can be laid to the charge of the Prelate's Charge.

Unless you think, that the Bishop did dictate as alleged, I cannot think any of your Lordships can vote him Guilty according to the Rules of Justice; for no Man is safe either in his Life, Liberty, or Fortune, if he may be deprived of either, on account of a Correspodence in which it does not appear he was concerned. The你的 Lordships should so far credit the precius Evidence at your Bar, as to believe that junos and illigitimae flood for the Bishop of Rochefoucauld; and unless it is plain that what is said of his privity, it is certainly impotible. This Bill should fail: And if it should, it will hereafter be in the power of any two Men, one at Home, and one abroad, to ruin the most innocent Perfon, by entering, without his Knowledge, into a Correspodence of this Nature.

If the being named in Tresonable letters be a Crime, tho' it does not appear it was with the privity of such Perfons, I will submit to your Lordships, how far Men of the greatest Zeal to the present Establishment, are to be affected by Mr. Plunket's Infirmity.

No Man ought to suffer for the Suggestions of another Perfon, unless it appears he has given great Foundation for them. And in this Case, would it not be most extraordinary and most unjust, to punish this Reverend Prelate, for a Crime which there is no Proof he ever committed? I mean, the dictating of these letters. And if, on the other hand, the unfortunate Circumstances of his Affairs have furnished him with Means of shewing, beyond Contradiction, that he could not be concerned in the letters of the 20th of April; that for a considerable time he could not see Mr. Kelly; and that there never was an Intimacy between them: Then, my Lords, I hope, every Man who gives his Vote for the rejecting this Bill, has the Strongest Evidence of his Side to support his Opinion; and need not be afraid or affianced to own it here, or anywhere else.

This part of the Evidence being of great Consequence, I must beg your Lordships Attention, whilst I recapitulate the Heads of it; as clearly and distinctly as possibily can.

The first Witnes they call'd was, Flower, a Chairman, who swears, That he carried Kelly twice or thrice to the Deanery; but that the Bishop was never at Home, and consequently did not see him. His Partner swore, he had carried him, with Flower, one of those Times.

The next Perfon produced was, a Porter, one Vanehair, who deposited, That he went about Chriftmas was Twelve-Months, twice, with Bufffages from Kelly to the Bishop; the last of which Times, he carried some Beaver Stockings to the Bishop for him on Saturdays, gave his Service to Mr. Johnstone, and thank'd him for his Prefent.

Mrs. Kilburn, at whose House Mr. Kelly lodged, says, That hence a Servant came from the Bishop, and he did not know how Mr. Johnstone did, and was very surprized he could not have his Company at Dinner.

William Wood, the Bishop's Coachman, says, he, once fopp'd in BYU-Street; but does not know for what; and that the Bishop sent a Servant some where, who presently returned. And, Lloyd, who keeps the Star and Garter in Palace-Yard, has told us, That Nyeau once came to his House, and told him, he ralid for an ingenious Gentleman, who was gone to the Bishop of Re- cester's House. This, my Lords, is all the Proof they offered of this Intimacy; from which they would infer, that the Bishop dictated these letters, and is consequently Guilty of the Crimes laid to his Charge.

If your Lordships consider what was produced on the other side, I am sure you must agree there is no Foundation for this Affirmation.

Mrs. Bishan denies, to the best of her Knowledge, that the Bishop ever came to her House, or that his Coach ever fopp'd there, or ever was seen for Kelly. That Kelly did not go out of Town, from the time he came from France, till he was taken up, the 18th of May, and never lay by her House one Night.

This, my Lords, was confirmed by her Maid, Anne Ellis.

Mrs. Barnes says, She never heard of any Mefage from the Bishop to Kelly, nor ever had any Conversation with him about the Bishop.

William Wood, the Coachman, who lived with the Bishop four Years, has declared, That the Bishop of Rochester never sent him with his Coach to BYU-Street to bring any Perfon from thence, that there was no Stranger at Bromley for a Fortnight before his Lady died, which was the 26th of April; that no body could come in a Coach or on Horseback, but he must know it; that he never saw such a Perfon as Mr. Kelly, till he was fetch'd at him at the Taver, and that, the Bishop went ill of the Gout to Bromley the 12th of April, and did not return to London till the 7th of May.

Manlow, Mrs. Barnes's Servant says, That the never saw the Bishop, or any of his Servants, with Mr. Kelly.

Thomas Grant, who has been the Bishop's Servant nine Years, has declared, That the Bishop went to Bromley the 12th of April very ill of the Gout, and that no Stranger could come to him, from the time he went to Bromley, till after his Wife's Death; that one or other of the Servants always sat up with him; and that no Perfon could visit him, but they must know it; for they were either in the same Room, or the next Room to him: and that no Stranger, except Dr. Aldridge and the Apothecary, came near him. Grant says, That he was forc'd to go to Town to attend at the Westminster Election of Soldiers on the 18th of April, but left Beauchamp there, who came down for that purpose on the 19th.

Beauchamp and Stem, who were the two Servants that attended with Grant, swear the fame thing.

Saunder Harvey, Sarah Jones, Thomas Farruten, Elizabeth Higgipson, and all the Servants agree, that they never heard of any perfon by the Name of Kelly or Johnstone's being with the Bishop. And, English, who took the Names of the Bishop's Vicars for many Years, does not remember, that the ever heard of such a Perfon as Kelly or
1723. and others, for a Treafulon Conspiracy. 473

or John F. And I doubt not, but that every Lord must allow, that it is not possible to have a more clear, a more strong, or legal Proof to a Negative, than this is.

I must observe to your Lordships, that most of these Servants have been in strict Custody, and severely used, particularly Forren, and yet your Lordships see how unanimously they are in their Evidence: and their Testimony is so positive, that I cannot conceive any person can suggest there was the least Intimacy between this Reverend Prelate and Mr. Kelly; and much less, that he could be with him, and write the letters that are dated the months of April, May, and June.

Mr. Borres did, indeed, so far agree, as to be of Opinion, that they might have been wrote the 11th of April, which was the Day Kelly came from France: But, my Lords, Mrs. Barres has depos'd, he went to Bed the Minute he came home, and lay there for a considerable time: besides, it is improbable that letters wrote the 11th, should not be sent till the 12th. But if any further Argument be requisite to refute this absurd Supposition, the Earl of Sunderland's death is mentioned in the letter to Coliver, and that Noble Lord died the 12th; at which Time it hath been proved, Mr. Kelly was not with the Bishop.

The Bishop of St. Asaph did at first peremptorily contradict one part of Mr. Grant's Evidence, by saying, he had receiv'd a letter from the Bishop of Rochester, at the Time which Grant has sworn he was at full of the Gout that he could not write.

His Lordship positively affirmed, that he rec'd this letter on Saturday the 21st of April in the Morning, and saw Grant in London between Twelve and Two: But when it was prov'd that Grant did not leave Brumley till the Evening of that Day, and that another person offici'd for him as Butler in the Deaneary, by Reason of his Absence, then the Bishop seem'd to think himself under a Mislike, and allowed it might have been from Mr. Borres.

His Lordship own'd, he never receiv'd a letter from the Bishop of Rochester before nor since, and therefore was a Stranger to his Hand.

I could have wish'd this Reverend Prelate had recollect'd himself more fully, before he had given his Testimony in a Matter of this great Importance to one of his Brethren.

There was another Witnes examined, which was Craw fans the Shoemaker, to prove, that Talbot (who was said to have receiv'd the three letters directed to Gordon le Fis) was at that Time in London, when he was suppos'd to have been in Bohunage. Crawfans swear's he saw him in Town the 20th of April, and prov'd it by his Book.

There was another perfon called, whose Name was Donner, that depos'd, Gordon own'd to him the receiving of this packet; but an Affidavit was produc'd from Gordon, in which he deni'd it. Donner's Evidence is only hearsay, the other is positive.

My Lords the Council for the Bill produc'd some papers which before were seen in the Bishop's Custody when he was apprehend'd, and endeav'ur to draw very ill-natured and forced Conclusions from them.

The First was a letter from the Dutchees of Ormond, in which he acquaints him, that she had something to send him, which she could not trust to a better Hand: he answer'd, gave Words to that effect. And this they would pretend to intumise, were some treasonable papers.

I appeal to all Mankind, whether it is not very extraordinary to suppose, that the Bishop should be permis'd to convey a Traitious Correspondence thro' that Channel. Every Body knows the Friendship which was between the Reverend Prelate and that Family; and it is not surprizing that this unfortunate Lady should think him a proper person to confide, and intrust with her own Affairs. Therefore I can't think, that these general Expressions can at all affect him.

The next they read, is a paper found, or pretend'd to be found, at the Deaneary, subscrib'd to Dubh, but without Date: In this the Person who writes in the Name of Dubh, begins by saying to Mr. John F. by which he return'd an Answer in his Hand.

The Secret Committee, at first, apprehend'd that this was receiv'd by the Bishop; and thus it pass'd, till upon seeing a letter wrote in the Deane by his Lordship, they found a Similitude in the Seals, which immediately enlighten'd them, and then it was presently faid to have been wrote by the Bishop.

They were wanted to fix this to be the Bishop's own Hand-writing, and they could find no other. Way of doing it, but pretending there was a Similitude between the E's in this letter, and those which the Bishop generally us'd. I believe it is the first time that ever such an Argument was brought to prove that the whole letter has been wrote by a Person: much less is it ever pretend'd to be offer'd to a Court of Justice against any Prisoner whatsoever: But, I believe, there is no Man acquainted with the Bishop's Hand, but fees is not wrote by him.

They would also affirm, that when in this letter the Bishop is us'd to say, That he return'd a Answer in Mr. John F's Hand, it must be understand to be his Hand-writing: which, I must confess does not at all appear to be a necessary Conclusion; for he might deliver his Answer into Mr. John F's Hand, which, I think, is more natural to suppose than the other.

Your Lordship must judge, how improbable it is, that the Bishop should keep such a letter by him, which he wrote himself; or that when such Care is taken, as the prosecutors of the plot them-selves say, for preventing any perfon's discovering the Intimacy between Mr. Kelly and him, such a Secret should be trust'd in Writing, and even without a Cypher. — The Two Seals which gave this Turn, are Cicer's Heads, which are very common. And are to be found everywhere. They are one broke, the other whole, which must make it very difficult to judge of them: and it is allow'd, that, at best, it is but precarious Evidence.

If Mr. Neve speaks Truth, when he said, The Bishop had Notice of the Storm that threaten'd him, I am certain, that this paper, if it could have been apprehend'd of Confiscation, would have been destroy'd: But, I believe, it was impossible for him, or any body else, to think it should meet with such an Explanation.

The next letter they produc'd, which they feanc'd the matter was, which was fixd on his Servant going to Mr. Morris: In this he says, That the Evidence of Plunket, and those people, could not affect him; but as he does not mention Mr. Kelly, they would have it premis'd, that this a proof, that Kelly could have said something of him. But, I think, this must appear to be a very ill-natured Affectation.

Your lordships will consider, he was then writing
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...ing to his Son-in-law, and therefore no great Ac
currency was necessary.

In another place, he says, That if they im
pitched him, he should remain in prifon for some
time; and this they would decypher to be an In-
implication of his Guilt. — But, in my poor Opini-
on, it is the Reverie: He seems to say, That if the
Commons should be induced to find an Im-
plication against him, he was so fatigued of his
own Innocence, and your Lordships Justice, that
he thought the Confinement till his Trial, would be
the only Misfortune that could attend him.
The Example of the Earl of Oxford was recent in
his Memory, and might justly create in him a
Fear of undergoing a long Imprisonment.

It is objected, That he, in this Letter, makes
no protestations of his Innocence: But if you will
consider he writes to Mr. Morrice, I believe every
body will agree, that such Declarations were not
necessary.

Mr. Lasheer's Attainder was read; but it does
not appear, That the Bishop had any Correspond-
ence with him; therefore I can't conceive why
we were troubled with it.

My Lords, I have now gone thro' the whole
Evidence that is brought to justify this extraor-
dinary proceeding, and must observe the Steps that
have been taken to procure all the possitive Means
to work the Deception of this Great Man. You
have from his very Servants confined, who, it
does not appear, were guilty of the least
Glimpse of Traitor.

Lasheer, a Baker of Brentzly, who appeared at
your Bar, has been employed to examine the per-
sons in the Bishop's Neighbourhood, in order to
find the least particular that could amount to the
Shadow of a proof; and went so far, as to offer
Wood the Coachman the Wages that were due to
him, if he would have gone the lengths that were
required.

Mr. Bingley told us at the Cafe of Kelly (and as
it has not been disproved), it is to be taken for
granted) that a Warrant was flown by the Mef-
fenger, signed by a Secretary of State, to carry
him to Nugeate, which he was told was unavoid-
able, unless he would own the letter of the 20th of
August to be Mr. Kelly's Hand-writing: But it
appeared the next Day, to be nothing but in or-
der to terrify him.

Mr. Kelly himself tells you Lordships, That Mr.
Dalsey offered him his own Terms, if he
would have turned Evidence: And this was done to
destroy the Bishop of Rochester; or, to speak in
the language mentioned at your Bar, To pull
down the Pride of this haughty Prate.

Your Lordships may remember, That Mr.
Warg objects to the Bishop's Servants, because
two of them had Employments, as appears by his
Lordship's own letter: but, my Lords, when they
were examined, they acquainted the Houle, that
it was upon reading of the Ripart, that they re-
ciprocated the Bishop's Circumstances before the
Death of his Wife. And if every Man, who has a
Place under the Bishop, is not to be esteemed a
free Agent, when he is upon Oath, I hope it
will be allowed, on the other hand, that those
who have Employments under the Government,
ought not to be admitted; then all the Witnesses
that have been brought to support the bill, from
the Deceiver to the Meffengers, will be differ-
cuted, and the whole Prosecution must fall to the
Ground.

My Lords, it has been a Hardship that has at-
tended the Bishop, that he has been forced to
prove a Negative; and the Difficulty has been the
stronger upon him, that your Lordships have not
permitted Mr. Kelly to be examined, as was moved
by a Learned Lord, in my Eye; and if the Gen-
tleman had from whom he was to formerly been
affirmed at your Lordship's Table, by the Bishop,
I can't conceive we could have had the least Debat.

The Noble Lords who appeared the most zea-
lous in this prosecution, were those who opposed
the Examination of Mr. Kelly; which in my poor
Opinion, is a strong Argument. That, if he had
been brought before us, he would have perisified
in his Declarations of the Bishop's Innocence.
The Reverend Prelate has defined of any Lord
in the Administration, and even the Honourable
Person who appeared at your Bar, to declare, whe-
ther any such single Person had charged him (on
their own Knowledge) of being guilty of any
forlorn Practice. And it has appeared to the cor-
tary: Therefore this whole Charge is founded
upon the flight Circumstances and improbable In-
volvements before-mentioned.

Another Objection, which has been raised, is, that
Mr. Kelly made Refiinace, when he was seized,
till he had burnt some of his Papers: But, my
Lords, I don't see any Reason to lay this to the
Charge of the Bishop.

Kelly is to answer for his own Actions, and is
unfortunately like to suffer for 'em: A Perfon of
his Age might have many letters in his Custody,
which he did not Care should be seen, and yet of
a different Nature from a Traitorous Cor-
respondence.

After this Evidence is considered, I cannot
think your Lordships will establish such a Prece-
dent, which heretofor may be employed to ruin
the greatest amongst you. And if ever hereafter,
paits and penalties are unjustly inflicted on any
person, policy will derive the Original of such
Bills from the proceedings of this Parliament;
and what Opinion will be framed of us, should
this be passed into a Law, I submit to every im-
partial Person.

It must be left to your Lordships Consideration,
which will be of most fatal Consequence to the
Publiss, The leaving this Precedent (of Con-
denning on such kind of Evidence) like a Sword
which your Enemies may take up when they
please, or the branding the Bishop of Rochester,
in the Evening of his Days, who alone could do,
in his single Perfon, no Prejudice to the Con-
titution. If he were inclined to overturn it, as its
Enemies fuggit, he is in a better Situation A
than at Home, to execute that Delign, and
direct the Counsels of the Difeifeated. The Ruin
of one Man will not heal the Wound, that the
paffing of this bill feems to make in the Govern-
ment of this Kingdom.

It has been said in the Debate, That the bi-
shop ought not to have made Profeclions in his
Favor in the Mothlyy, and his Family: But I
think he took the most ready Way of performing
his Duty, when he shew'd himself Innocent of
the Crimes laid to his Charge.

If he had made use of any Expressions, which
those lords blame him for omitting, the fame
Good nature would have call'd it Hypocrify; and
those who are disjoin'd with his Silence, would
have accused him of Infirmity.
My lords, this bill seems as irregular in the Punishments it inflicts, as it is in its Foundation, and carries with it an unnatural Degree of hardship.

It is Felony for his Children to correspond with him: And in this Circumstance, it is different from the only bill that carries with it the least Resemblance of this; I mean, That for the banishment of the Earl of Clarendon.

The Earl had flown from the Prosecution, and retired beyond Sea. The Charges against him were, principally, for defacing a Standard Army; and another Article exhibited was, That he had omitted and refused the oaths of his Majesty's Subjects: and he is impeached against Laws, in remote Hills, Gardens, and other Places, thereby to prevent them of the Benefit of the Laws, and to produce Precedents for the Impri soning any one of his Majesty's Subjects in the Manner.

The 7th Article against him was, That he had, in a Short Time, gave'n to himself a greater Estate than can be imag'n'd to be gave'n disloyally in so short a Time. And contrary to his Oaths, he had procured several Grants under the Great Seal from his Majesty, for himself, and his Relations, of several of his Majesty's Lands, Hereditaments and Leases, to the Disprofit of his Majesty.

There need not have been any Witnesse of these Crimes, for they were apparent; and every body knew that he was Prime Minijer: Yet Sir Francis Goddard, upon that Debate in the House of Commons, declared the Sentiments which I express'd at the Beginning, That he was not against Proceeding, but unjustified to do it without Witnisse, it being like favoring in verbo Magnifici.

Another great Man, upon the same Question, and an Ancestor to a Noble Lord near me, said; That if the Parliament would refuse Law in this Cafe, we should be happy to see Law declaring the Power of Parliament.

The Punishment for Corresponding with the Earl was High-Treason, and then Two positive Witnisses were necessary to convict: But in this Cafe, one corrupt, terrified, and perjurd Person may take away the Life of the most innocent Man.

There is another great Misfortune which this Bill brings upon the bishop, which is, That he is incapable of receiving his Majesty's Pardon. This, my lords, is an Entrenchment upon the Prerogative. And if we do not make it the more secure in this Cafe, it is, That his Majesty's Inclinations to Mercy (which are the distinguishing Characters of his Life) are bound by this Law, which the unfortunate Prelate might have Hopes of receiving when he had merited it, by a dutiful behaviour to the Country that had sent him to wander abroad in Exile, and by his future Conduct have confirm'd, if possible, the Evidence he has given of his Innocence.

My lords, in the Cafe of the Earl of Danby, your lordships have declared, That the banishment should be no Precedent, nor drawn into Example for the Time to come, and have so enter'd it in your Journals.

It has been prove'd, That this Reverend Prelate was at the time that he was supepted to be acting in Treason, engaged in Studies of the most High Nature, which is a Circumstance that ought to have some Weight.

If this Bill pass into a Law, such Evidence is establish'd, and such a Method of Proceeding introduced, as must effectually render all that is dear to us precarious; and if ever, hereafter, we

should get a wicked Administration, supported by a corrupt Majority in Parliament, and this Step taken in their Times of Liberty, will be a sufficient Precedent to give a Colour of Justice to the Actions of those who should be wanted in Tyranny.

The Reverend Prelate, who spake before me, mentions some Cafes relating to Bills of Attainder, which in my poor Opinion, differ very much from our present Question.

The Attainer of Sir John Forwick was only to supply the want of a Witness who had deposed against him upon Oath before the Grand Jury, and who was spirited away by the Prisoner's Friends: But at present, your lordships are to supply the Defect of Evidence, by confounding an improbable Conjecture. There was a Noble Lord in this House the other Day, I don't see him now, who made the greatest Figure in Opposition to this Bill, I wish we could have his Affluence on this Occasion.

My lords, since that Reverend Prelate has quoted some Cafes, he will permit me to remind him what has been formerly said upon Acts of Attainder; That such Bills, like Bishop's Stone, have frequently roll'd back upon those that were the chief Promoters of them.

This prudent Argument should restrain us from being too forward with them at this Time of Day.

The Act for the Attainer of the Earl of March pass'd, because he had been instrumental in procuring the Attainer of another lord, under pretence of a letter, which the Record says, was no Evidence.

The lord Crousewell is another known Infance of this Observation: He was the first who advised this violent Proceeding in Henry the 8th's Time; And it is remarkable, that the Advice he gave to the Ruin of others, prove'd, not long after, fatal to himself.

I have now given your lordships the Reasons why I am against the Bill. I fear I have tried your Patience, and shall therefore conclude with the Words of the Great Man I before mention'd; I mean, Sir Henry Finch, in the Cafe of the Earl of Clarendon— 'We have an Accusation upon Hear's, say, and if it is not made good, the blackest 'Scandal Hell can invent, lies at our Doors.'

The Refult of this Debate was, that the Bill, pass'd the House; it afterwards obtain'd the Royal Assent, and was as follows:

An Act to inflict Penalties and Penalties on Francis Lord Bishop of Rochester.

WHEREAS in the Years One thousand seven hundred and twenty one, and One thousand seven hundred and twenty two, a detestable and horrid Conspiracies was formed and carried on by divers Traitors for invading your Majesty's Kingdoms with foreign forces, for raising an Insurrection and Rebellion against your Majesty, for seizing the Peace and City of London, and for laying violent Hands upon your Majesty's most sacred Person, and upon his Royal Highness the Prince of Wales, in order to subvert our present happy Establishment in Church and State, by placing a Popish Pretender on your Throne: And whereas for the better concealing and effecting the said Conspiracies, divers treasonable Correspondences were, within the time aforesaid, carried on by Letters 4 K written
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written in Cyprus, a few Words, and following Names with
Corruption, it has been dit
appended by the Godly, to Almighty God, to
would have deprived your Majesty's Kingdoms of the Enjoyment of their Religion, Laws and Li-
erties, involved them in Blood and Ruin, and fur-
terred your people to the Ruins and Oppression of Religious Superstition and Arbitrary Power: For
which execrable Person, as you have been informed, tried, convicted, and attained. And
whence Francis, Lord Bishop of Rockefell, not
withstanding the many fatigues and wanderings by him
of said Faith and Allegiance to your Ma-
Jesty, by taking the Oaths by Law appointed to be
said, instead of the Oaths of Allegiance and Supplication
which Oaths he had likewise taken at Hebray Times, during the respective Reigns of
their late Majesties King William and Queen Mary, and of her late Majesty Queen Anne, and
notwithstanding he had frequently absolved the Pretender, hath, in direct Violation of his said
repeat Oaths and Obligations, and to the great
friend of Religion, and his Holy Function, been deeply concerned in forming, directing, and
carrying on the said wicked and detestable Con-
spiracy, and hath been a principal Actor therein,
by traitorously confuting and corresponding with
divers Persons to raise an Insurrection and Rebel-
lon against your Majesty within this Kingdom, and
to procure a foreign Force to invade the same,
in order to depose your Majesty, and place the
Pretender on your Throne; and by traitorously cor responding with the said Pretender, and Per-
sons employed by him, knowing them to be so employed: Therefore to manifest our just Ab-
horrence of so wicked and abominable a Conspiri-
acy, and our Zeal and tender regard for the
Preservation of your Majesty's Peace and Go-
vernment, and of the Protestant Sacerdoy in your
Majesty's Royal Farry, the solid Foundations of
our present Happiness and future Hopes; and to
the end that no a Conspiracy may, by any lab-
tu Solicitude or Practice whatsoever, escape
Punishment, and that all others may be the
Justice of Parliament be for ever hereafter de-
terred from engaging in any traitorous Conspiri-
cies or Attempts. We your Majesty's most
Most dutiful and loyal Subject, the Lords Spiritual
and Temporal, and Commons in Parliament as-
fembled, do humbly beseech your Majesty, that
it may be enacted; and be it enacted by the King's
most excellent Majesty, by and with the Ad-
vise and Consent of the Lords Spiritual and
Temporal, and Commons in Parliament assemb-
ed, and by the Authority of the same, That
the said Francis Lord Bishop of Rockefell, from
and after the Fifth Day of June, in the Year of our
Lord One thousand seven hundred and twenty three, shall be, and is hereby, to all Latents and
Purposes, deprived of all and singular his Offices,
Dignities, Promotions, and Benefits Ecclesiasti-
ocal whatsoever, and that the same, and every of
them, shall from henceforth be actually void, as
if he were naturally dead; and that the said Francis
Lord Bishop of Rockefell shall from henceforth
for ever be disabled, and rendred incapable of
and from taking, holding, or enjoying any Of-

CXCV. The
CXCV. The Trial of Thomas, Earl of Macclesfield, Lord High Chancellor of Great Britain, before the House of Lords, for High Crimes and Misdemeanors in the Execution of his Office, May 6, 1725. Geo I.

The First Day.

BOUT Eleven of the Clock, the Lords being seated in their House, the Managers for the House of Commons being in the Conveniences made for them at their Lordships Bar, Thomas Earl of Macclesfield, horsetail Steel plate'd for him within the Bar, and his Counsel, viz. Mr. Serjeant Proby, Sir Dafy Sayer, Mr. Langle, Commons-Serjeant of the City of London, Mr. Blooms, and Mr. Strange, standing near him at the Bar, the Serjeant at Arms made Proclamation as follows:

Serj. at Arms, Oyez, Our Sovereign Lord the King, briefly charges and commands all manner of Persons to keep Silence, upon Pain of Impri sonment.

Then the Serjeant at Arms again made Proclamation as follows:

Serj. at Arms, Oyez, Whereas a Charge of High Crimes and Misdemeanors has been exhibited by the House of Commons, in the Name of Themselves, and of all the Commons, of Great Britain, against Thomas Earl of Macclesfield; all Persons concerned are to take Notice, that he now stands upon his Trial, and they may come forth in order to make good the said Charge.

Then the Clerk-Officer, by Direction of the Lord Chief Justice King, Speaker of the House of Lords, read the Articles of Impeachment, the Earl of Macclesfield's Answer, and the Replication of the House of Commons, as follows:

ARTICLES

Exhibited by the Knights, Citizens, and Burgesses in Parliament assembled, in the Name of themselves, and of all the Commons of Great Britain, against Thomas Earl of Macclesfield, in Maintenance of their Intercurrence against him for High Crimes and Misdemeanors.

WHERAS the Office of Lord Chancellor of Great Britain is an Office of the highest Dignity and Trust, upon the impartial and incorrupt Execution whereof the Honour of the Crown, and the Welfare of the Subjects of this Kingdom greatly depend: And whereas Thomas Earl of Macclesfield, in or about the Month of May, in the Year of our Lord, One thousand four hundred and eighteen, by the great Grace and Favour of his most Excellent Majesty, was constituted and appointed Lord Chancellor of Great Britain, and did thereupon take the usual Oath for the due Execution of that High Office, whereby he did swear well and truly to serve our Sovereign Lord the King, and his People, poor and rich, after the Laws and Usages of this Realm, and such other Oaths as have been accustomed; and the said Earl continued in this great Office until about the Month of January, in the Year of our Lord, One thousand seven hundred and twenty five, and in Right thereof was intrusted with the Nomination and Admission to the Offices of Matters of the Court of Chancery, which Matters of the said Court are Officers of great Trust sworn to serve the King and his People, and appointed to the Lord Chancellor for his Affidavit in the due Administration and Execution of Justice in the said Court: And whereas his Majesty, upon the said Earl's being appointed to the Office of Lord Chancellor, did, of his Grace and Bounty, bestow upon the said Earl the Sum of Fourteen thousand Pounds, or some other great Sum, and did likewise grant unto George Parker Esq. now commonly called Lord Parker, Eldest Son and Heir Apparent of the said Earl, a Yearly Pension of Twelve hundred Pounds, payable out of his Majesty's Receipt of the Exchequer, during the joint Lives of his Majesty and the said Lord Parker, determinative upon his Majesty's making a Grant to the said Lord Parker, in Possession of the Office of one of the Tellers of his Majesty's Exchequer, for the Term of his natural Life, which Office being the yearly Value of Fifteen hundred Pounds, or upwards, has been since granted by his Majesty unto the said Lord Parker for his Life, who in or about the Month of July, in the Year of our Lord, One thousand seven hundred and nineteen, was duly admitted to and doth still enjoy the same; and the said Earl during the Time of his continuing Lord Chancellor of Great Britain, did not only enjoy the usual Salary, Fees, and Profits belonging to his Office, of a very great Annual Value, but also did continue to receive an annual Pension of Twelve hundred Pounds, which his Majesty in or about the Month of June, in the Year of our Lord One thousand seven hundred and sixteen, had granted to him and his Affigns, during his Majesty's Life; and did likewise receive from the Crown a further annual Allowance of Four thousand Pounds, and many other Advantages: Yet the said Thomas, Earl of Macclesfield, not being satisfied with this large and ample Revenue, nor regarding the Obligation of his Oath, or the Duty of his high and important Office, but entertaining wicked and corrupt Designs and Views, to raise and procure to himself excessive and exorbitant Gain and Profit, by divers unjust and oppressive Practices and Methods herein after mentioned, whilst he continued
That Richard Godfrey, Esq, having contracted with Sir Thomas Cary, one of the Masters of the Court of Chancery, for the Purchase and Surrender of his Office, at the Price of Five thousand Pounds, or some other great Sum of Money; the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, before the Admiration of the said Richard Godfrey into the Office of One of the Masters of the Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Extortively Inflict upon, Take and Receive of and from the said Richard Godfrey the Sum of Eight hundred and forty Pounds, or some other Sum of Money, for the Admitting him into such Office of a Master of the Court of Chancery, and to the Intent that the said Richard Godfrey should Have, Exercite and Enjoy the same, which said Office touches and concerns the Administration and Execution of Justice in the said Court, and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Purvance and Execution of the said wicked and corrupt Bargain, or in Purvance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said Richard Godfrey into the Office of one of the Masters of the said Court of Chancery, upon the Surrender of the said Sir Thomas Cary, in Breach and Violation of his Oath as Lord Chancellor, and of the great Truth in him reposed, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

That the Office of one of the Masters of the said Court of Chancery, becoming vacant by the Death of Samuel Bragging, Esq; one of the last Masters of the said Court; the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, and before the Admiration of James Lightbody, Esq; into the said Office of One of the Masters of the Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Extortively Inflict upon, Take and Receive of and from the said James Lightbody the Sum of Six thousand Pounds, or some other great Sum of Money, in Consideration of, and for the Admitting him into such Office, and to the Intent that the said James Lightbody should Have, Exercite and Enjoy the same, which said Office touches and concerns the Administration and Execution of Justice in the said Court, and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Purvance and Execution of the said wicked and corrupt Bargain, or in Purvance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said James Lightbody into the Office of One of the Masters of the said Court of Chancery, in Breach and Violation of his Oath as Lord Chancellor, and of the great Truth in him reposed, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

That John Bovet, Esq; having contracted with John Orchar, Esq; one of the last Masters of the Court of Chancery, for the Purchase and Surrender of his Office, at the Price of Six thousand Pounds, or some other great Sum of Money, the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, and before the Admiration of the said John Bovet into the Office of one of the Masters of the Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Extortively Inflict upon, Take and Receive of and from the said John Bovet the Sum of thirteen hundred and seventy-five Pounds, or some other Sum of Money, for the admitting him into such Office of a Master of the said Court of Chancery, and to the Intent that the said John Bovet should Have, Exercite and Enjoy the same, which said Office touches and concerns the Administration and Execution of Justice in the said Court; and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Purvance and Execution of the said wicked and corrupt Bargain, or in Purvance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said John Bovet into the Office of one of the Masters of the said Court of Chancery, upon the Surrender of the said John Bovet, in Breach and Violation of his Oath as Lord Chancellor, and of the great Truth in him reposed, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

That Edward Cowenoy, Esq; having contracted with John Orchar, Esq; one of the last Masters of the Court of Chancery, for the Purchase and Surrender of his said Office, at the Price of Six thousand Pounds, or some other great Sum of Money, the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, and before the Admiration of the said Edward Cowenoy into the Office of one of the Masters of the Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Extortively Inflict upon, Take and Receive of and from the said Edward Cowenoy, the Sum of fifteen hundred Pounds, or some other great Sum of Money, for the admitting of him into such Office of a Master of the said Court of Chancery, and to the Intent that the said Edward Cowenoy should Have, Exercite and Enjoy the same, which said Office touches and concerns the Administration and Execution of Justice in the said Court; and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Purvance and Execution of the said wicked and corrupt Bargain, or in Purvance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said Edward Cowenoy into the Office of one of the Masters of the Court of Chancery, in Breach and Violation of his Oath as Lord Chancellor, and of the great Truth in him reposed, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.
the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, and before the Admission of the said William Kynaston into the Office of one of the Masters of the Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Excessively Infiltrate, Take, and Receive of and from the said Francis Elde, the Sum of Five thousand two hundred and fifty Pounds, or some other great Sum of Money, in Consideration of, and for the Admitting him into such Office of a Master of the said Court of Chancery, and to the Intent that the said Francis Elde should Have, Exercite, and Enjoy the same, which said Office toucheth and concerneth the Administration and Execution of Justice in the said Court; and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Pursuance and Execution of the said wicked and corrupt Bargain, or in Pursuance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said Francis Elde into the Office of one of the Masters of the said Court of Chancery, in Breach and Violation of his Oath, as Lord Chancellor, and of the great Truth in him repose, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

A R T. VI.

That Thomas Bonnet, Esq; having Contracted with John Heecocks, Esq; one of the Masters of the Court of Chancery, for the Purchase and Surrender of his said Office, at the Price of Seven thousand five hundred Pounds, or some other great Sum of Money, the said Thomas Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, and before the Admission of the said Thomas Bonnet into the Office of one of the Masters of the said Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Excessively Infiltrate, Take, and Receive of and from the said Thomas Bonnet, the Sum of Fifteen hundred and seventy-five Pounds, or some other Sum of Money, for the Admitting him into such Office of a Master of the said Court of Chancery, and to the Intent that the said Thomas Bonnet should Have, Exercite, and Enjoy the same, which said Office Touches and Concerns the Administration and Execution of Justice in the said Court; and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Pursuance and Execution of the said wicked and corrupt Bargain, or in Pursuance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said Thomas Bonnet into the Office of one of the Masters of the said Court of Chancery, upon the Surrender of the said John Heecocks, in Breach and Violation of his Oath as Lord Chancellor, and of the great Truth in him repose, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

A R T. VII.

That the Office of one of the Masters of the said Court of Chancery becoming vacant by the Death of John Borrett, Esq; one of the late Masters of the said Court, who died insolvent, greatly indebted to the Sitters of the said Court, the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, without securing a just Satisfaction to the said Sitters, for their Debts, and before the Admission of Mark Thorylon, Esq into the said Office of one of the Masters of the said Court of Chancery, did, by colour of his Office of Lord Chancellor, Illegally, Corruptly, and Excessively Infiltrate, Take, and Receive of and from the said Mark Thorylon, the Sum of Five thousand two hundred and fifty Pounds, or some other great Sum of Money, in Consideration of and for the Admitting him into such Office of a Master of the said Court of Chancery, and to the Intent that the said Mark Thorylon should Have, Exercite, and Enjoy the same, which said Office Touches and Concerns the Administration and Execution of Justice in the said Court; and the said Thomas, Earl of Macclesfield, being Lord Chancellor, in Pursuance and Execution of the said wicked and corrupt Bargain, or in Pursuance of some other Bargain or Agreement of the same infamous and corrupt Nature, did admit and swear the said Mark Thorylon into the Office of one of the Masters of the said Court of Chancery, in Breach and Violation of his Oath, as Lord Chancellor, and of the great Truth in him repose, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

A R T. IX.

That whereas Thomas Bonnet, Esq in or about the Month of January, in the Tenth Year of his Majesty's Reign, was possesse of an Office in the Court of Chancery, called the Office of Clerk of the Custodies, for the Term of his Life, by Virtue of his Majesty's Letters Patents under the Great Seal of Great Britain, which Office is an Office of Trust in the said Court, in the Gift and Disposal of the Crown by Grant under the Great Seal, and concerns the writing and making Commissions
millions to inquire of Idots and Lunatics, and the Protests thereupon, and Letters Patents for the Custody of the Bodies of Idots and Lunatics, and the keeping, entailing, and transferring Orders, Reports, and Accounts made and declared, touching Idiots and Lunatics, and their Estates in the said Court of Chancery; and the said Thomas Bentz having agreed with Hugh Hamersley, Esq., to resign the said Office, in order to obtain his Majesty's Royal Grant of the said Office to the said Hugh Hamersley, the said Thomas, Earl of Macclesfield, being then Lord Chancellor of Great Britain, did refuse to permit or accept of such Resignation, until the said Thomas Bentz had agreed to resign the said Thoms. Earl of Macclesfield, or unto his Usf, One hundred and five Pounds, or some other Sum of Money, as a Condescension for the same, and, by colour of his Office of Lord Chancellor, did illegally, Corruptly, and Extensively Infilt upon, Take, and Receive, of and from the said Thomas Bentz, the said One hundred and five Pounds, or some other Sum for and in Consideration of the permitting and accepting such Surrender of the said Office, in order to and for the obtaining and procuring a New Gift or Grant of the said Office unto the said Hugh Hamersley; and in pursuance thereof, the said Thomas, Earl of Macclesfield, then being Lord Chancellor, and One of the Lords Justices of this Kingdom, during his Majesty's Absence, did accept, or cause to be duly accepted, the Resignation of the said Thomas Bentz of the said Office, and by his Interdict and Recommendation did obtain and procure his Majesty's Royal Warrant for preparing and pasting his Majesty's Grant of the said Office unto the said Hugh Hamersley, as a Term of his Life; which Grant afterwards, in or about the Month of September, in the Tenth Year of his Majesty's Reign, did accordingly pass the Great Seal, then in the Custody of the said Earl, for which all the usual and accustomed Fees were paid, over and besides the said One hundred and five Pounds, in great Discontent of the Crown, in Breach and Violation of his Oath, as Lord Chancellor, and of the several great Trusts then in him reposed, contrary to the Duty of his Office, and against the good and wholesome Laws and Statutes of this Realm.

A R T. X.

That the said Thomas, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, did illegally and Corruptly Ordain, Name, and Make divers other Officers and Ministers of his Majesty, for Gift and Brocade, and did likewise illegally and corruptly fall divers other Offices, touching and concerning the Administration and Execution of Justice in the Court of Chancery, to several Persons, for divers great Sums of Money, which the said Earl did receive from the said Persons for their respective Admissions into such Offices, and before they were admitted thereto, and in order that the said Persons should have, exercise, and enjoy the same, in great Breach of the Trust in him reposed, and of his Oath as Lord Chancellor, contrary to the Duty of his Office, and against the Laws and Statutes of this Realm.

A R T. XI.

That the said Thomas, Earl of Macclesfield, whilst he continued in the Office of Lord Chancellor of Great Britain, in order to advance and increase the illegal and corrupt Gain, arising to himself from the Sale and Disposal of the Offices of Masters of the Court of Chancery, in Violation of the great Trust reposed in him for the Care and Protection of the Surrender of the said Court, whole Money and Effects were, by Orders of the said Court, lodged in the Hands of the Masters of the said Court of Chancery, and ascribes to the said Persons to the said Offices of Masters of the said Court of Chancery, who, at the Time of their Admissions, were of small Substance and Ability, very unfit to be trusted with the great Sums of Money and other Effects of the Said Masters, at their Hands, in the Years of the said Court, and openly in public, or at least in the Store of the said Court, for the Time being, to the said Masters, falsely represent the said Persons, so by him admitted to the Offices of Masters of the said Court of Chancery, as Persons of great Fortunes, and in every Respect qualified for the Trust reposed in them, to the manifest Defeat and Injury of the Masters of the said Court.

A R T. XII.

That whilst the said Thomas, Earl of Macclesfield executed the said Office of Lord Chancellor, an unquiet and feautulent Method was practiced in the Court of Chancery upon the Sale of the Offices of Masters of the said Court, and upon the Admissions of new Masters, that the Prices or Sums of Money agreed to be paid for the Purchase of the said Offices, and for the Admissions thereto, were falsified and paid out of the Monies and Effects of the Masters of the Court deposited in the Hands of the respective Masters, certifying their Fidelity and Integrity, and of the Purchaser Money in the Hands of the Master reifying, or of replacing the Money disburdened for such Purchase or Admission by the succeeding Master, out of the Money and Effects of the Masters coming into his Hands; by which Practice the Price and Value given upon the Sale of the said Offices, and Admissions thereto, during the time aforesaid, were greatly advanced, and several Persons of small Ability and Substance were encouraged to contract for the said Offices, upon a Prospect of the easy attaining the Purchases of the same, by means whereof great Deficiencies have incurred in the Offices of several Masters of the said Court, admitted by the said Thomas, Earl of Macclesfield, which they have not been able to answer and make good; and although the said Practice was notorious and public, and the said Earl was well informed thereof, and fully acquainted therewith, yet the said Thomas, Earl of Macclesfield, in order to increase his own unjust and corrupt Profit in the selling the said Office, and the Admissions thereto (which in consequence of this evil Practice was raised and received by him out of the Efficacies of the Masters, for whom he was intrusted) did not at any Time, whilst he continued in his Office of Lord Chancellor, use or take any means to reform the said Abuse, or to prevent the same, either by causing proper Schedules to be taken of the Money and Effects of the Masters delivered over and transferred to the Expiry of any Person, in order to inspect or supervise the Transfers or Deliveries thereof, or in any other manner; but on the contrary, the said Thomas, Earl of Macclesfield, unjustly, corruptly, and contrary to the Duty of his said Office of Lord Chancellor (to whom the Superintendency of the said Masters, and
and of their Accounts did appear) did suffer the said fraudulent Practice to proceed and be executed without any Control or Check, whereby great Embarrassments have been made of the Suitors Money and Effects, to their great Loss, in the Office of several of the Masters of the said Court, which have not been able to answer and pay their respective Balances owing upon their Accounts, in breach of the Truth repol'd in him for the Prefervation of the Eftates and Effects of the Suitors, to the Difhonnour and Dicredit of the said Court, and to the great Injury and Defrauding of the said Suitors, in a Court of Equity, established for their Relief and Protection.

A R T. XIII.

That Fleetwood Durner Esq., one of the Masters of the Court of Chancery, having embezzled great part of the Money and Effects belonging to the Suitors of the said Court, with which he was intrusted by the said Court, and dispof'd of the time for his own private Advantage, by Means whereof there became, and still continues a great Deficiency in that Office, to the Amount of twenty five thousand Pounds, or some other great Sum; and the said Fleetwood Durner, having abfconded, and for some time abfconded himself, Application was made to the said Earl of Macclesfield, then Lord Chancellor of Great Britain, to secure the Perfon of the said Fleetwood Durner; and to take proper Methods for compelling the said Fleetwood Durner to make Satisfaction to the Suitors for the Money and Effects, which he had fo embezzled, yet the said Earl, from an Apprehension that a publick Discovery of the said Deficiency might leffen the aunt Gain he propof'd to make to himself, by fel'ling and dispofing of the said Offices of Masters of the said Court, neglecd and declined either to secure the Perfon of the said Fleetwood Durner, and his Estate and Effects, or to make a proper Enquiry into the said Deficiency; But on the contrary, the said Earl, whilst he continued Lord Chancellor of Great Britain, has in many indirect Practises, to conceal from the Suitors of the Court, the true State and Condition of the said Office, as well with respect to the Effects of the said Fleetwood Durner, as to the Debt due from him to the Suitors of the Court, and upon Motion made in the said Court of Chancery (after the said Earl knew that the said Fleetwood Durner had fo abfconded) on behalf of some of the Suitors of the Court, to have their Effects transferred from the said Fleetwood Durner to some other Masters, for the better securing thereof, the said Earl of Macclesfield, (in order to delude the Suitors of the said Court into a Belief that their Effects were safe, and thereby to prevent a publick Enquiry) then acting as Lord Chancellor in open Court, did say, That the said Parties were not to be in haste, and did at the same time falsely and deceitfully declare, that the said Fleetwood Durner was only gone to take the Air in the Country, and that he would return in a little time, and all would be well, or to that Effect.

A R T. XIV.

That the said Fleetwood Durner, having towards Satisfaction of the Suitors of the said Court, assigned to Henry Edwards Esq. (who succeeded him in his Office of Master of the said Court of Chancery) a Debt of Twenty four thousand and forty six Pounds four Shillings, or some other great Sum due from William Wifjen, a Banker, to the said Fleetwood Durner, to the intent that the Money received on Account thereof should be applied and dispof'd of, as the said Court of Chancery should order and direct, the said Wifjen, Earl of Macclesfield, whilft he continued Lord Chancellor of Great Britain, for the unlawful Purpofes aforfeid, without Regard to the Interest of the said Suitors, by colour of his Office, did, in an unwarrantable, clandestine, and usual manner, authorize, direct, and establish a precarious and trifling Composition with the said William Wifjen, upon the Terms of the said William Wifjen's paying the Sum of Fourteen hundred forty three Pounds, two Shillings and a Penny, and ailing Ten thousand Pounds, part of a Debt of Twenty two thousand and fifty Pounds, twelve Shillings and five Pence, pretended to be due to the said William Wifjen from Edward Pofter, or to that Effect, in Difcharge of the said Debt; and to that End, upon the Report of John Hickey Esq., then one of the Masters of the said Court, without any Attendance order'd or had thereupon, and without Notice to the said Suitors, did, by a private Order not made in open Court, order the said Henry Edwards to accept of the said Composition, in full Difcharge of the said Debt, which said Edward Pofter was a Perfon inoffent, and has since abfconded for Debt, and none, or but a very small part of the said Ten thousand Pounds, has been or is ever likely to be received.

A R T. XV.

That the said Thomats, Earl of Macclesfield, whilst he continued Lord Chancellor of Great Britain, to carry on his corrupt and unjust Purpofes, and to conceal the Deficiency that was in the Office of the said Fleetwood Durner, did, in or about the Month of February, in the Year of our Lord, One thousand seven hundred and twenty, order the several Masters of the said Court of Chancery to bring in their Accounts of the Cafes, Effects, and Securities in their Hands belonging to the said Court, with a Delign of examining their Accounts, or securing the Eftate and Effects of the Suitors, but with an intent to terrify the said Masters, and thereby oblige them to contribute great Sums of Money towards answering the Demands that should, from time to time, be made upon the said Office; for which purpofe, he the said Earl did at several Times reprefent, or caufe to be reprefented to the said Masters, that if they refufed to do, the Money and Effects of the Suitors would be taken out of their Hands, and the said Masters deprived of making any Profit of the Funds belonging to the said Court, being then Lord Chancellor of Great Britain, by colour of his Authority, did partake and indulge none of the Masters of the said Court of Chancery, to pay Five hundred Pounds each for the purposes aforfeid, several of whom paid the fame out of the Money or Effects of the Suitors in their Hands; but after fuch Payments, the said Thomats, Earl of Macclesfield, did not oblige the said Masters to deliver in their Accounts in purliance of fuch his faid Order.

A R T. XVI.

That Elizabeth Citty, Widow, having obtained an Order of the Court of Chancery, on or about
about the seventeenth Day of March, in the tenth Year of His present Majesty's Reign, made by the said Thomas, Earl of Macclesfield, then Lord Chancellor, whereby Henry Edwards Esq, one of the Matters of the said Court of Chancery, who succeeded Fleetwood Damer Esq, in the said Office, was ordered to pay her the Sum of one thousand Pounds, part of the Sum of ten thousand Pounds, or other great Sum of Money, formerly paid into the Hands of the said Fleetwood Damer, as a Matter of the said Court, and by the said Order mentioned to be then in the Hands of the said Henry Edwards; and that the said Henry Edwards came to the said Earl, that the making Orders upon him to pay Money which had been received by the said Fleetwood Damer, was a very great Hardship upon him the said Henry Edwards, in regard he had not any Money or Effects in his Hands to answer such Demands, the said Earl of Macclesfield, being then Lord Chancellor, in further prosecution of his unjust and corrupt Purposes, did, by colour of his Authority, exclaim with the Members of the said Court of Chancery, to raise the said Sum of one thousand Pounds out of their Eccles, by representing to them, that a Discovery of the Deficiency in the said Office might occasion a Parliamentary or Publick Enquiry into the Nature and Condition of their Offices, and hazard the Forfeiture of the fame, by reason of their having bought the said Offices contrary to Law, which the said Earl then declared would affect him, but themselves much more, or to that extent; but the said Matters relating to raise the said Sum of one thousand Pounds, the said Earl of Macclesfield did order his Secretary Peter Cunningham Esq, to pay the said one thousand Pounds, who, in pursuance of the said Earl's Directions, in or about the Month of July, one thousand seven hundred and forty four, did pay the Same to Ajan Christopher Linnan, for the Use of the said Elizabeth Chany, and the said Earl of Macclesfield, upon Application made to him by the said Earl, which Application was in the manner of the said Money, did acquaint him, that he, the said Earl, had given Directions to his Secretary for payment of that Sum, but at the same time declared to the said Ajan Christopher Linnan, that he, the said Earl, believed this would be the last payment he was like to receive out of the said Money paid into the Hands of the said Fleetwood Damer, for the Residue thereof was in great Danger of being lost, by reason of the Deficiency in the Effects of the said Fleetwood Damer, or to that effect. Notwithstanding all which proceedings, in this and several other Articles mentioned, upon a Motion made in the Court of Chancery before the said Thomas, Earl of Macclesfield, then Lord Chancellor, on or about the fifth Day of December last, in a Caufe there depending between Anne Harper, Plaintiff, and Thomas Cope, and others. Delinquent, relating to the Sum of two hundred and fifty Pounds, or some other Sum, deposited in the Hands of the said Fleetwood Damer, before his absconding, and which was then apprehended in great Danger of being lost, the said Thomas, Earl of Macclesfield, then sitting in Court as Lord Chancellor, did publickly, falsely, and deceitfully declare, that he had heard there was a Deficiency in the Office of the said Fleetwood Damer, but that he, the said Earl, knew nothing of it, only as publick News, or to that Effect; and thereupon did order, that the said Henry Edwards should examine in what Manner the said two hundred and fifty Pounds was deposited with the said Fleetwood Damer, and whether there was likely to be a Loss of any Money deposited with the said Fleetwood Damer.

A R T. XVIII.

That notwithstanding the said Earl of Macclesfield well knew that there was a very great Deficiency and Loss by the Failure of the said Fleetwood Damer, and that the said Henry Edwards, his Successor, had not furnished in his Hands to pay the whole Sum of Money to the Suitors of the Court, that had been received by the said Fleetwood Damer on their Accounts; yet the said Earl of Macclesfield, being Lord Chancellor, in order to carry on his unjust Designs of concealing the said Deficiency, and to prevent any Public Enquiry that might arise from the just Complaints of the Suitors of the said Court, did, from Time to Time, in manner and with Violation of the Law, in order to have the said Henry Edwards examined for Payment of the Money belonging to several particular Suitors, which had been lodged in the Hands of the said Fleetwood Damer; in Obedience to which Orders several Sums were paid, without regard to, or consideration of the Proportion which the rest of the Suitors were entitled to, out of the Effects of the said Fleetwood Damer, whereby many of the said Suitors lost the Benefit of their proportionable Share, to which in Justice they were entitled.

A R T. XVIII.

That the said Thomas, Earl of Macclesfield, notwithstanding that he very well knew, and was informed that the Matters of the said Court did, or that it was in their Power, from Time to Time, and at their Pleasure to dispise of and employ the Money and Effects belonging to the Suitors of the said Court, which were intrusted with them respectively, and more particularly, in the Case of the said Henry Edwards, to dispise of the said Fleetwood Damer, Esq, one of the Matters of the Court of Chancery, who was chiefly occasioned by his, the said Fleetwood Damer's, having taken upon himself unduly to dispise of and employ the Money and Effects belonging to the Suitors of the said Court, which were intrusted in his Hands; and notwithstanding that, soon after the said Fleetwood Damer became insolvent, it was represented and protested to the said Thomas, Earl of Macclesfield, then Lord Chancellor of Great Britain, in order to prevent for the future any Looses that might happen to the Suitors of the said Court, that the several Effects and Securities belonging to the Suitors should be placed out in such Manner, as that the Power of disposing, employing, or in any manner trading with the same, might be totally taken away from the said Matters, for the effecting of which just Design, a particular Method was laid before the said Earl; and it was also further protested, that the said Matters should give some reasonable Security to answer the Balance of such Cash, as should, from Time to Time be in their Hands; and notwithstanding the said Earl was credibly informed, that the Sufficiency of some other of the said Matters was very much suspected, yet the said Thomas, Earl of Macclesfield, whilst he was Lord Chancellor of Great Britain, contrary to the Duty of his Office, and thereby propelling to make unlawful Gain.
himself by the Difposal and Sale of the Offices of Master of the said Court of Chancery; and in order to induce Perfons to give him, the said Earl, a greater Price or Reward for their being admitted to the same, did not require or demand any Security whatsoever, to be given by any of the said Masters, upon their being admitted to their Offices, or at any other Time; and the said Earl with the same corrupt View and Intention, and to keep up the Price of the said Offices, totally neglected to enquire into the Accounts of the said Masters, and did fraudulently, unjustly, and in Breach of the Trust reposed in him, permit and encourage the Masters of the said Court, to employ and traffick with large Sums of Money belonging to the Suitors of the said Court, and to make Intered thereof for their own unjust Gain and Profit; and the said Earl, after such Propofal made to him, as aforefaid, or at any other Time, during his Continuance in the said Office did not take any Care that the Effects of the said Suitors should be placed out in such Manner, as to prevent the Masters from traffickling therewith, or that the said Masters should give such Security, as was propofed; by Means whereof great Deficiencies, to the amount of many thousands of Pounds, have been, through such Default of the said Earl, occasioned in the Offices of several other of the Masters, to the great Loss and Injury of the Suitors of the said Court.

A R T. XIX.

That whereas his most Sacred Majesty, out of his fatherly Goodness to his People, did, in or about the month of November last, direct an Enquiry to be made into the Accounts of the Masters of the said Court of Chancery, to the Intent that proper Methods might be taken for the Security of the Suitors of the said Court; the said Thomas, Earl of Macclesfield, being then Lord Chancellor of Great Britain, and one of his Majesty's most Honourable Privy Council, in order to obviate the fame, and to prevent a parliamentary Enquiry into the State and Condition of the said Office of the said Masters, in Breach of the several great Trusts reposed in him, to give Advice and Encouragement to the said Masters to audit and supply each other with money and Effects, and did represent to the said Masters, that it would be for their Honour and Service, to appear able and sufficient, and that, if they made a bold Stand now, it might prevent a parliamentary Enquiry, or to that Effect, and did persuade several of them to make full Representations of their Circumstances to his Majesty, by sending a Subcription to their respective Accounts delivered to the said Earl, to be laid before his Majesty, to the Effect, following (viz.)

That they were able to answer the Money and Securities in their Hands, and were willing to pay the fame to such Perfons as were entitled thereto, although the said Earl knew, or had good reason to believe, that several of the Masters were not then able to answer the Balance of their Accounts, nor are they yet able to satisfy or make good the fame; and when the said Masters were afterwards required to produce the Cafu and Effects of their Suitors in their Hands, fame of the said Masters were unwilling to give such Advice and Encouragement given by the said Earl, did supply others of them with Cafu and Effects, to make a false show and appearance of their Ability and Readiness to answer the Balance of their Accounts.

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and exclude the said Rachel Tynan, the Guardian of the said Infant, and also John Nicholas Ellis (a Person of great Substance and Ability, nominating the said Rachel Tynan, to be Receiver of the Reents and Profits of the said Infants Estates, and approved by Robert Holford, Ellis, one of the Malters of the said Court, and for that Purpose, who had given sufficient Security for the due Execution of his said Trust) from the Management and Receiverhip of the said Infant's Estates; and did, by such Orders, unduly and injuriously nominate and appoint Robert Deyling, Ellis, a Creature and Confidant of his own, and a Person altogether unfit and unqualified for so great a Trust, to be Receiver of the Reents and Profits of the said Infant's Estates, and to have a Salary for the same for a Power to let such Part of the said Estates, as was or should become untenanted, with the Approbation of the said Robert Holford, although the said Rachel Tynan did object utterly, and oppose such Appointment of the said Robert Deyling, and did insist to have the Benefit and Exercise of her Right in that Respect, as the Guardian appointed and intrusted by her late Husband; and the said Robert Deyling, after he was so admitted into the said Receiverhip, did for several Years receive the Reents and Profits of the said Infant's Estates, to the Amount of about Ten thousand Pounds, or other great Sum, and in his Life-time did engage and convert to his own Use, great part thereof; and in or about the month of November, One thousand seven hundred and twenty two, died insolvent and indebted to the said Infant and his Estate, in the Sum of Two thousand six hundred Pounds, or other great Sum, upon the Balance of his Account, no Part whereof hath hitherto been satisfied or paid; and the said Thomas, Earl of Macclesfield, in further Abuse of his Power, and in contempt of the Laws and Statutes of this Realm, when upon Debate of the matter in the said Court of Chancery, before the said Earl, being then Lord Chancellor, in the month of January or February, in the fifth Year of his Majesties Reign, or in one of them, it was inflected upon, in Behalf of the said Rachel Tynan, by her Council of great Ability and Experience, and the said Earl, in the Court at that time the Proceedings of the said Earl, as Lord Chancellor, were a reviving the Power of the Court of Wards, and were not supported or warranted by any Precedent in the Court of Chancery, he, the said Thomas, Earl of Macclesfield, then sitting in the Court as Lord Chancellor, did not only profane in such his Appointment of the said Robert Deyling, but did also arbitrarily, and in VIOLATION of the said good and beneficial Statute, Lay, and in that Court, that then he would make a Precedent in that Instance, or he, the said Earl, declared and exprest himself to that Effect; which Actings, Proceedings, and Declarations of the said Earl, have been and are not only very injurious and prejudicial to the Right and Interest of the said Rachel Tynan, as Guardian, and to the great Damage and Loss of the said Infant Francis John Tynan, and a notorious Violation of the Acts were also an open and dangerous Exercise of illegal and arbitrary Power, to the Distraction of the Laws and Constitution of this Realm, in manifest Breach of his Oath as Lord Chancellor, and in great Abuse of his Authority. 

And the said Knights, Citizens, and Burgesses, by Protestation, having to themselves the Liberty of exhibiting, at any Time hereafter, any further Articles, or other Accusations or Impeachment against the said Thomas, Earl of Macclesfield, and also of replying to his Answers which he shall make unto the said Articles, or any of them and of offering Proof to all and every the aforesaid Articles, and to all and every other Articles, Impeachment, or Accusation, which shall be exhibited by them, as the Cause shall, according to the Court of Parliament, require, do pray, that the said Thomas, Earl of Macclesfield, may be put to answer the said Crimes and Misdeemances, and that such Proceedings, Examination, Trials, and Judgments, may be thereupon had and given, as are agreeable to Law and Justice.

The Answer of Thomas, Earl of Macclesfield, to the Articles exhibited by the Knights, Citizens, and Burgesses in Parliament assembled, in the Name of themselves, and of all the Commons of Great Britain, in Maintenance of their Impeachment against him, for High Crimes and Misdeemances, is hoped be heard by him committed. 

The said Earl, having to himself all Advantage of Exception to the said Articles, and of not being proceeded against Words or Words of Form in this his Answer, and also favoring to himself all Benefit and Advantage of the Act for the King's most gracious, general, and free Pardon herein after mentioned, and all Rights and Privileges belonging to him as one of the Peers of this Realm, for Answer to the said Articles faith, that he, having for several Years executed the Office of Chief Justice in the Court of King's Bench, his Majesty of his royal Grace and Favour was pleased, the tenth Day of March, One thousand seven hundred and fifteen, to advance the said Earl to the Dignity of a Peer of this Realm, and created him Baron of Macclesfield; and, in regard to his Circumstances at that Time, was further pleased, for the better Support of that Honour, to grant to the said Earl the Pension of Twelve hundred pounds per Annum, in the Articles mentioned, payable at the Receipt of the Exchequer; and his Majesty was then further pleased to declare his Royal Intentions of giving to the said Earl's only Son, George Parker, for his Life, an Office of considerable Profit, when a proper Opportunity should offer; that in the Beginning of May, in the Year One thousand seven hundred and eighteen, the said Earl, was, by his Majesty's great Grace and Favour, appointed Lord Chancellor of Great Britain, and was sworn before his Majesty in Council in the fourteenth Day of that Month, when the following Oath, being the usual Oath of Lord Chancellor, was administered to him. (viz.)

YOU shall swear, that you shall truly and truly for our Sovereign Lord the King, and his People, in the Office of Chancellor of Great Britain; and you shall do Right to all Manner of People, Poor and Rich, after the Laws and Usages of this Realm; and truly you shall Counsel the King, and his Council you shall love and keep; and you shall not know nor suffer the Hurt or Dishonour of the King, or that the Rights of the Crown be derided by any Means, as far forth as you may. And further, if you may not let it, you shall make it clearly and expressly known to the King, with your true Advice and Counsel, and that you shall do and perform the King's Profits in all that you may, and all things which you shall do to the best of your Skill and Knowledge, As God shall help you.
And the said Earl at the same Time took the Oaths of Allegiance and Supremacy, but no Oath of Office before he entered the said House; and the said Earl did doth admit, that, during his Continuance in the said Office of Lord Chancellor, he did enjoy the usual Salary, Fees, and Profits belonging to such Office, which he, says, are of much less annual Value than they are generally (as he believes) esteemed to be; and that his Majesty was pleased to grant him the Salary or Allowance of Four thousand pounds per annum, in the Articles mentioned, during such Time as he should continue to be Lord Chancellor; but the same is so far from being particular in the Cafe of the said Earl (as the said Articles would intimated) that it is to be stated that he hath been for many Years so constantly granted to, and enjoyed by his Predecessors in the said Office; and the said Earl doth likewise admit, that his Majesty did, of his royal Grace and Bounty, sign a Warrant for payment of the Sum of Fourteen thousand pounds mentioned in the said Articles, to the said Earl, out of the Receipt of the Exchequer, whereof Two thousand pounds was the contingent usual Allowance from the Crown to the Lord Chancellor or Lord Keeper, for and towards the Expenses in entering upon the said Office; and the residue of the said Fourteen thousand pounds, over and above the usual Fees and Deductions upon payment thereof, was his Majesty’s royal Munificence to the said Earl, and the same was received by him accordingly; and the said Earl doth likewise, with the greatest Gratitude, own, that about the same Time, his said Son being then of a proper Age, and desirous to go abroad to travel, his Majesty was pleased to grant to the said George Parker the yearly pension of Twelve hundred pounds, payable out of the Receipt of the Exchequer, during the joint Lives of his said Majesty, and the said George Parker, determinable upon his Majesty’s granting to him, the said George Parker, in Poffession or Reversion, the Office of one of the Tellers of the Exchequer, for Life, and his coming into the actual Possession thereof, and which the said Earl likewise admits has been since granted to his said Son, and that he came into the actual possession thereof in or about July, One thousand seven hundred and nineteen, whereby the said yearly pension is determined; and the said Earl faith, that, during his continuance in the said Office of Lord Chancellor, or at any other Time, he never once had a Design, or View, or With to raise to himself any exorbitant Gain or Profit, much less used or ever thought of using any Usurp or Oppressive Methods to Extort or Obtain any Sum whatsoever, as in the said Articles is suspected, but such Views and Practices are inconsistent with the whole Tenor of his Life and Actions; and in case it shall be thought proper for the said Earl to lay before your Lordships an Account of his Eftate and Fortune, and of the considerable Sums of Money he has distributed for the Relief and Support of others, it will appear that he is not such a defamings, avaricious, and oppressive Man, as forth in the said Articles he is represented; and the said Earl humbly hopes, that he shall be allowed, in this his Answer, to distinguishing between Acts themselves, and the Inferences drawn from them by the said Articles, and that, whenever he admits any Fault, he may not be understood to admit that such Fault was by him done or committed upon such Motives, and with such Defigures, or in such Manner, as is suggested in the said Articles, and with this Redress he answers, as follows: By way of general Answer to such of the said Articles, as relate to the making any pretent by reasons admitted to the Office of Masters in Chancery; the said Earl doth say, that the same has been long used and practised in the Time of his Predecessors, in the said Office, and that such pretends have been reckoned amongst the ancient and known perquisites of the Great Seal, and the making and accepting thereof has been notorious to all the World, and never before looked upon to be criminal or complained of as such; and the said Earl humbly hopes, that the giving or receiving of a Precent on such occasion is not criminal in itself, or by the Common Law of this Realm, and that there is not any Act of Parliament whatsoever, by which the same is made criminal, or subject to any Punishment or Judgment, which can be prayed in this Prosecution; and the said Earl thinks himself obliged humbly to lay this before your Lordships, not in only in his own Defence, but in Vindication of the Honour of so many Great and excellent Men, who have been his Predecessors in the said Office, and have all along done the same, for which the said Earl is now contumable of, and of others have been, Lords Chief Justices of the King’s Bench and Common Pleas, Masters of the Rolls and other Judges, who have likewise received Precents in Money, upon the Admission of the several and respective Officers under them, in several Courts of Justice, and who, the said Earl is assured, never apprehended themselved to be Guilty of any Crime against any the good and wholesome Laws or Statutes of this Realm.

I. & T. To the first, second, third, fourth, fifth, sixth, and seventh Articles, the said Earl further faith, that long before the 24th of July, One thousand seven hundred and twenty one, he did admit and swear Richard Goffrey, James Lightman, John Borrel, and Edward Cowley Esquires, into the Offices of Masters of the Court of Chancery, and every one of them did freely and voluntarily, and of their own accord, as former Masters had done to the Predecessors of the said Earl, send to the said Earl a Precent upon Occasion of their respective Admittances, which the said Earl accepted, and that after the said 24th of July, One thousand seven hundred and twenty one, he did admit and swear William Kingston, Thomas Benett, and Francis Eide into the Offices of Masters of the Court of Chancery, and faith, that every of the said Persons last named, did freely and voluntarily, and of their own Accord, in like Manner, fend a Precent to the said Earl upon occasion of their respective Admittances, but faith, that, it being pretended by the said Kingston and Benett, that they were by such Precents disabled from answering to much of the Money due from them to the Suitors of the Court, he the said Earl did afterwards, and before the Impeachment, deliver the Precent so sent him by the said William Kingston, being fifteen hundred seventy five Pounds; and also the Precent so sent him by the said Thomas Benett, being the like Sum of Eight hundred and twenty five Pounds, into the Court of Chancery, in open Court, to be applied for the Benefit of the Suitors, as the Court should Direct, and that the said Earl retained of the Precent so sent him by
by the said Francis Eble, no more than the
Sum of One thousand eight hundred and fifty
Pounds.

VIII. To the eighth Article the said Earl fur-
ther faith. That in July left the Office of one of
the Matters of the said Court became vacant
by the death of John Basset Esq.; the said Earl
in-
ferred, but whether solvent or not, he cannot
say; but upon notice of his Death, the said Earl
did at first desire Richard Godfrey Esq., one of
the Matters of the said Court, who had been very
well acquainted with the said Mr. Basset, and
his Affairs, and afterwards the said Mr. Godfrey
and John Basset Esquire, another of the Matters
of the said Court, to inquire into his Effects,
and to take what Care they could about the same,
who, after some inquiry, informed the said Earl,
that they believed there would be no Deficiency,
and feared a considerable Part of the Effects of
the said Mr. Basset, and entred a proper Cavaet
in the Prerogative Court, to prevent Administration
being granted to any Persons who might embezzle
the said Basset's Elates; and afterwards, at the
Requet of the said Earl, proceeded so far, as to
obtain a Sentence in the said Prerogative Court,
for Administration to be granted, for the
Benefit of the Suitors of the Court, to them, the
said Mr. Basset and Mr. Godfrey, which was
afterwards, upon their waving thereof, granted to
Mr. Paxton, as the said Earl believes, but the
said Earl thought it proper and necessary to
admit another Matter in his Place, to carry on
the Business of the Court, and to be intituled to
demand the Effects of the Suitors, from the Repre-
fentative of the said Mr. Basset, when one
should be appointed therefor; therefore in the
fifth Day of August last, did admit and swear
Mark Thorley Esq. into the said Office, vacant
by the Death of the said Basset, and the said
Earl admits the said Mark Thorley did upon that
Occasion freely and voluntarily, and of his own
Accord, fend a Piaint, whereof two thousand
Pounds, and no more, were retained.

IX. In Answer to the ninth Article the said Earl
faith; That he believes Thomas Basset Esq. in
this Article named, was polled for of the Of-
fice of Clerk of the Cufedilies, in the Article de-
scribed, and that such Office is in the Gift and
Disposal of the Crown, by Grant under the Great
Seal, but denies that he did at any time inflict
upon the Sum of one hundred and five Pounds, or
any other Sum of Money, to permit or accept of
the Resignation of the said Thomas Basset, or
did refuse to permit or accept thereof, until the
said Thomas Basset had agreed to pay the Sum of
five Pounds, or any other Sum in that Account; but faith,
That although the said Office be unlawfully granted by the
Crown, yet it has always been looked upon to be the Right of the Lord
Chancellors, or Lord Keepers, to recommend to that, and
other Offices under the Great Seal, and to
approve and allow of the Deputies to execute the
same; and, upon such Recommendations and
approving of Deputies, have accepted Prefets, and
been upon the facings as these Rights; and
further faith, That there have been two of such
Offices granted in his Time, one of which
appearing to him to be a Cafe wherein the Party
had fulleried great Hardship, the said Earl pall'd
the same without any Prefet whatsoever, though
the other was the Cafe of Mr. Humefer, in the Articles
mentioned, in which the said Earl owns he did
accept a Prefet.

X. In Answer to the tenth Article the said
Earl faith. The fame is conceived in such general
Terms, that it is not to be expected he should
give any particular Answer thereto; however,
the said Earl has been Lord Chancellor, he never once took any
Money, Prefet, or Gravity whatsoever, for or
upon Account of the naming, making, or ad-
imitting any Officer whatsoever, other than be-
fore particularly named, except in the Chancery's
Office, where he owns he has done, as was done
by all his Predecessors before him.

XI. In Answer to the eleventh Article the said
Earl faith. That the former containing any
particular Charge, he apprehends himself
oblige to give any particular Answer thereto;
but however, in general, does say, That he ne-
ever did admit any Person into the Office of a
Matter of the Court of Chancery, but who was
either known to be of Substance and Ability,
and fit to be trusted in such Office, or, upon a
proper Enquiry, very well recommended to him
as such; and, whenever there have been several
Candidates, the said Earl has constantly given
the Preference to him that he thought would best
discharge the Office, and most for the Honour of the
Court, and the Advantage of the Suitors;
and believes that he may, upon some Occa-
sions, have declared, that he thought the then
Body of Matters as good, with respect both to
their Elates, and Ability for Discharge of the
Office, and their Integrity, as had been at any
time before, or to that Effect, and what he did
say to that Purpose, he thought to be really
true.

XII. To the twelfth Article the said Earl faith,
That if there was any such Practice as is men-
tioned in the Article, of paying for the Places
of the Matters out of the Money and Effects
belonging to the Suitors of the Court, he was
totally ignorant of it; but admits, that he did not,
nor did any of his Predecessors, that ever he
heard or believes, give any sum for Numbers or
for Schedules to be made of the Money and
Effects of the Suitors of the Court to be delivered
over to the succeeding Matters, but believes,
that in virtue of the general Order of Transfer made
certainly upon every Admittance, such Schedules
were made between the new Matters and their
Predecessors, or the Representatives of their Pre-
decessors; and if the ill Consequences, in the
Articles alleged, had followed from such Prac-
tice, or from the not ordering such Schedules, which
he does not admit, he infers that the fame could
not render him criminal.

XIII. In Answer to the thirteenth Article the
said Earl faith, That after Christmass, in the
Year one thousand seven hundred and twenty,
he was informed, That the said Factious Dunor
had withdrawn himself to Holland, where he then
was, and thereupon the said Earl used all the
properst Methods he could for securing his Pe-
riets, and particularly directed Mr. Eobertson, and
Mr. Regt., the then two Senior Malters of the
Court, to make an Enquiry into his Affairs and
Accounts, and to consider what would be most
proper to be done; and the said Earl believes,
that the said two Matters, in pursuance of the
Directions from the said Earl, did search the
Chambers of the said Factious Dunor, in King-
ston.
for High Crimes and MISdemeanours.

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ead's Jun., to see what Books, Accounts, or Ef-
fects could there be more with, but found no Ac-
count whatever; or any effects of Value, and did
not find a slip, the transferring of the Stock, or
then in the Name of the said Flettyzer Durner,
in any of the Publick Companies; and the said
Flettyzer Durner's Perfon being thus out of Reach,
and his Accounts and effects wholly un-
known, except the Stock, which could not be
dispose of without his Concurrence, a Proposal
was some time after made to the said Earl, That
the said Flettyzer Durner might have a Promis of
his Liberty from the said Earl, and upon that
Condition he would come over, and affign all his
Effects, and submit himself to that man and all
and jilting his Accounts; and the said Earl, fear-
ning no other Way open to get any thing for
the Suitsors, and being made to believe, that if
any Deficiency should happen, the fame should
be made up by the other Masters, did agree,
That in case the said Flettyzer Durner would
come over, and make a full Discovery of all his
Effects, and affigne the fame for the Benefit of
the Suitsors, he the said Earl would allow him his
Liberty on that Condition, and not otherwise;
and the said Earl was long after informed, That
the said Flettyzer Durner continued to their
Terms, and would very soon come over, and
discover and deliver up his Effects; and the said
Earl did not doubt, but the whole Debt upon
the said Flettyzer Durner would be paid. And
the said Earl, that he does not remember
that any Application was ever made to him, by
the said Masters of the said Court, for any Affi-
lance of the Court, touching the Perfon or Ef-
effcts of the said Flettyzer Durner, but what he
granted, so far as he thought it tended to the
Benefit of the Suitsors, and believes that no Ap-
nlication was ever made to him by the Suitsors,
or any of them, or any other, to secure the Per-
fon of the said Flettyzer Durner, or for compel-
ing him to make Satisfaction to the Suitsors; and
the said Earl faith, that he never endeavoured
to conceal the true State and Condition of the
Office from the Suitsors of the Court, nor
did any of them apply, till very lately, to the
said Earl to look into the fame; and further
faith, That he remembers nothing of his ever
using any such Expofition, as is charged in the
said Article, at any time before or after he knew
that the said Flettyzer Durner had committed
XIV. To the Fourteenth Article the Earl faith,
That Harry Edwards, Esq; in this Article men-
tioned, succeeded to the Office of Mr. Durner,
about the the eighteenth Day of May, one
thousand seven hundred and twenty-one; but, by
reason of the Disorder the said Office was then
under, and the great Danger of a Loaf therein,
the Earl had given up and quitted all the Adva-
vantage which might accrue to him upon the Diplo-
mal thereof, and left it entirely to the other Ma-
ters to raise what money they could thereby;
which was agreed to be all applied towards
making good any Deficiency therein, which might
happen to the Suitsors of the Court; and therapon
in that Office; and therapon the Sum of five
thousand Pounds was raised, by the Diplomatic of
the said Office to Mr. Edwards, and was applied
accordingly; and the said Earl believes the Debt
from William Wilfon, in this Article mentioned,
was assigned by the said Mr. Durner to the said
Mr. Edwards in Trust, and to the Intent, that he
should pay, apply, and dispose of the said Debt,
or such Part thereof, as should be, from time to
time, by him got in, and received of and from the
said William Wilfon, in such maner as the said
Court should order and direct, or to that Effect;
after which said Assignment made, the Earl
believes that the said Mr. Edwards used great En-
deavours to obtain Payment and Satisfaction of
the said Debt from Mr. Wilfon; but finding all
his Endeavours fruitless, and that the said Wilfon
had long before fopt Payment, and was in no
Condition of paying his Creditors the whole of
their Debts, but that he was willing, and had
offered to come to a Compofition, and to pay
them in a proportion of the utmost he was able;
the said Mr. Edwards thereupon in the third Day of June, in the Year of our Lord, One thou-
sand four hundred and twenty two, preferred his
Petition to the said Earl, as Lord Chancellor, set-
fing forth in Subdivision the State of the Cafe, as
before-mentioned, and praying that it might be
referred to one of the Masters of the Court, to fee
if such Compofition, as fo proposed by the said
William Wilfon, were for the Benefit of the Perfon
intended to receive the fame; and the fame was
accordingly, by Order of the said Earl, referred
to Mr. Hicks, the then senior Master of the Com-
mon, to inquire into, and report upon the same
therein; and after the fix and twentieth Day of
July, then next following, the said Mr. Hicks
made his Report, that the said William Wilfon
had, under his Hand in Writing, proposed to
affigne over to the said Mr. Edwards, as a Com-
pofition for, and in full Discharge of, the Sum
of twenty four hundred forty six Pounds and
four Shillings, therein mentioned to be due and
owing from him to the said Mr. Edwards, as
Agniff of the said Mr. Durner, the Sum of ten
thousand Pounds, Part of a large Sum due to
the said William Wilfon, from Edward Polder of
Hartley, Gentleman, in this Article mentioned,
and to pay the said Mr. Edwards in Specie, the
Sum of one thousand four hundred thirty three
Pounds, two Shillings and one Penny, over and
above the Sum of five hundred and sixty Pounds,
then already paid to the said Mr. Durner, in
part of the said Compofition; and that upon
Consideration laid of the Circumstances of the
said William Wilfon, and the said several Masters,
he was of Opinion, that the accepting the said
Compofition would be for the Benefit of the Per-
on or Perfon or Perfon intitled to receive the fame;
upon which said Report the said Mr. Edwards,
about the third Day of August, then next pre-
ferrred another Petition to the said Earl, with the
said Report annexed, and thereby expressly prayed
the said Earl to order him, the said Mr. Edwards;
to accept of the said Compofition, whereupon
the said Earl, in a proper and usual manner,
ordered the fame as prayed; and the said Earl
faith, that he was informed, and believes, that
the said Compofition was made and agreed to,
on a Confutation of all or molt of the Masters
of the said Court, who the said Earl did believe
would ute their joint Endeavours to get as much
as they could; and the said Earl, he hath heard,
and believes it to be true, that besides the one
thousand four hundred thirty three Pounds,
two Shillings and one Penny, then paid down,
there hath been since got in by Mr. Edwards,
on account of the said Debt from Edward Polder,
the Sum of one thousand Pounds, or there-
abouts.
about; and that at the time of the said Assignment, the said Debt, claimed by Wilton from Poole, was a just Debt, and Judgment at Law has been twice obtained for eighteen thousand Pounds, Part thereof, and the said Poole was looked upon to be a substantial Person, though, to avoid Payment of the said Wilton's Debt, which arose on account of their Dealings in Seabourne Stock, and Subscriptions in the Year one thousand seven hundred and twenty, the said Poole not only brought his Bill in Chancery, but, after the same was dismissed, and that he was in Editions with Poole, under the Act of Common Law, he found means to make his Escape out of the Custody of the Marshal of the Court of King's Bench, and to get over to France or Holland, where he still continues, as the Earl is informed; but he is likewise informed, that, after the said Escape, a Commission of Bankruptcy was taken out against him by the said Wilton, upon which some Effects were recovered, and likewise in Action at Law brought, and a Verdict and Judgment for eighteen thousand Pounds and upwards obtained by the said William Wilton against the Marshal, on account of the said Escape; and, faith, he hath likewise informed, that the said Edward Poole and the Marshal have each of them offered considerable Sums of Money by way of Composition for the said Debt; but the said Wilton, from a Perusal of the Abilities of the said Edward Poole to pay the Whole, did at first refuse any Composition with the said Poole, and since hath been afraid to make any Composition, either with Poole or the Marshal; and what may be the Consequence thereof, with regard to the Suits of the Court, or what further Sums of Money may be recovered upon account of the said Debt, towards making them Satisfaction, the Earl faith, he cannot with any Certainty take upon him to answer.

XV. To the sixteenth Article the Earl faith, that about the Month of February, in the Year of our Lord one thousand seven hundred and twenty, he gave Orders to his Secretary to write to the several Masters of the Court of Chancery, to bring in their Accounts of the Cash, Effects, and Securities in their Hands, belonging to the Suits of the Court, and believes he did so, but denies that the same was done with any unjust Purpose, or with any Thought to certify the said Masters to make any Contribution, towards satisfying the Demands upon the said Office of Fleetwood Dormer, but believes, what they did contribute, they paid freely and voluntarily, and out of their own Money, and therein, as the said Earl believes, did no more than follow a Precedent of the like Nature, on the Failure of Dr. Edmunds, formerly a Master of the said Court; and the said Earl faith, that his real and whole Intention in calling for the said Accounts, was to inform himself, in the best manner he was able, of the State and Condition of the several Offices, and thereby to be the better able to make proper Regulations concerning the same; and therefore, though the said Article seems to intimate, as if the calling for the said Accounts was to be stopped, as soon as the Masters were prevailed on to contribute, the said Earl faith, that afterwards, and without any Regard thereto, he still continued to call for the said Master's Accounts, and not finding them brought in, as he expected, he did, about the Beginning of November following, cause another Letter to be sent to them, requiring them to bring in their Accounts; and, by both the Letters sent to them on that Occasion, he directed the particular Method in which he would have their Accounts made up; but the said Earl, being afterwards convinced how difficult and tedious a Work it would be, and that Obligation it would give to the Bureaux of the Court, and that at last it could not be depended upon with any Certainty, was forced to lay aside that Design, and to consent that Poole, with his Small Team which his Predecessor had done; and Murray, being led to observe, that what has been lately done, with respect to the Accounts of the said Masters, plainly shows the impenetrable Difficulties of such an Undertaking.

XVI. To the sixteenth Article the Earl faith, that he believes that, on or about the seventeenth of March, one thousand seven hundred and twenty three, such Order was made as, in the said Article is mentioned, for Henry Edwards: Efg, to pay Elizabeth Clithy one thousand Pounds, part of the Money brought before Mr. Dennes, but does not remember that the said Henry Edwards made any Complaint thereof to the said Earl, but believes Mr. L. orders, not having then sufficient Effects of Mr. Dennes in his Hands, refused Payment thereof; and that in July following, Mr. Leckman, in the Articles named, applied himself to the said Earl several times, and in a very earnest manner, to help the said Mrs. Clithy to the said one thousand Pounds; alleging that he the said Mr. Leckman was to marry her, and that he had made a Composition with his Creditors, upon which one thousand Pounds was to be paid in a very short time, which he then mentioned; and that he the said Mr. Leckman was to have the said one thousand Pounds for that Purposes; and that, if he had it not by the Time, the Composition would be void, and he should be utterly ruined; and at length the said Earl, being greatly moved by the pressing Importunities of the said Mr. Leckman, and by Composition for the very great Dittens in which he then appeared to be, did promise to supply him with the said one thousand Pounds out of his own Pocket, and accordingly directed Mr. Goguelon, then his Secretary, that the Pay was to take from the said Mrs. Clithy an Assignment of the Benefit of the said Order, and believes the same was done accordingly; and that, upon Mr. Leckman's pressing for a further Sum for the said Mrs. Clithy, for her own Use, the said Earl might tell him, that the said one thousand Pounds was all that he must expect from the said Earl; and the said Earl does not believe that he had any Discourse with the said Masters to persuade them to pay the said one thousand Pounds to Mr. Leckman.

And as to the last Branch of the said Article the Earl faith, that the Fact was, that one Jackman, having, in the Cause in the Article mentioned been confirmed the best Purchaser of part of the Estate of T. Harper at the Price of two hundred and sixty Pounds, so long ago as the nineteenth of December, one thousand seven hundred, the said Cause being at the same time ordered, that the Writing and Mortmain, for such Estate, should be delivered to his Counsel, and that the Tenant should attend to him, on
his bringing his Purchafe Money before Mr. Dormer, then one of the Matiers, and the faid Money having been brought before the faid Matter the twenty fourth Day of December, one thousand seven hundred and fourtie, and the faid Money being then executed, and the Tennis, having attorned to Yarham, but the Conveyances not being then executed, though long before approved, a Motion was made in the Court of Chancery before the faid Earl on the fith Day of December laft, that all Parties might execute the Conveyances, and the two hundred and fifty Pounds paid to the Plaintiff, towards Satisfaction of a Demand the had out of the Estate of the faid Harper; and thofe that were to have the Refiduums of the faid T. Harper's Estate, infifted, that they were always ready to join in the Conveyances, if the Purchafe Money were applied to discharge the reft of the Estate, that they were apprehended of a Deficiency of Mr. Dormer's Estate, and therefore neither they nor the Plaintiff ought to be Sufferers from the Deficiency, the Delay having been occasioned by the Purchafe, and not by the Plaintiff, and therefore acquitted executing the Deeds, unless upon Payment of the Money to the Plaintiff, and discharging the reft of the Estate from thence; and this being the firft Time that any Question relating to Mr. Dormer's Deficiency had been laid before the Court, by any of the Matiers, the faid Earl took notice of its being fo, and believes he might express himfelf to this Effect: That he had never heard of the faid Dormer's Deficiency, but that it had never yet come judicially before him, upon Complaint of any of the Matiers of the Court; and further declared, That if there should be any Deficiency in his Office, several Circumstances had concurred thereto, as Whifon the Banker's Hopping Payment, greatly indebted to him, Poulter's going away in Whifon's Debt eighteen thousand Pounds, and upwards, after a Verdict and Judgment at Law, and Poulter in actual Execution for it; and that, as he had heard, Whifon had then lately brought an Action against the Marquif, and recovered a Verdict therein, the faid Earl faid he did not know, or he expreffed himfelf to that Effect, and no other; and thereupon ordered, that it should be referred to Mr. Edwards, to examine whether the faid two hundred and fifty Pounds was deposited with Mr. Dormer for the Benefit of any particular Person, and whom, and what was the Occafion of the Delay, that the faid Conveyances were not executed, and the faid two hundred and fifty Pounds, Purchafe Money, paid out before the Yeare one thousand seven hundred and twenty; and whether there was ready to a Lofe of any Money deposited with the faid Mr. Dormer, and that upon the Matter's Report, fuch further Order should be made, as should be juft; and the faid Earl faid the faid Order was very proper and neceffary, and takes the Liberty of repreffenting to your Lordfhips, That this was after the Accounts of the Matiers had been laid by the faid Earl before the Lords of the Council, and had been for some Time under the Confeffion of the Judges and others, appointed by His Majesty to inquire into the fame.

XVI. To the forthcoming Article the Earl faid, That he never endeavoured to conceal the Deficiency occasioned by Mr. Dormer's Failure, but as the faid Earl was under a full Perfonation, that the fame would all in due Time be made good, and as Mr. Dormer's Effects were coming in by degrees, and no Application was made to him by any of the Persons concerned, to put a Stop to, or any Refrain upon, the Payments, he did not know it incumbent upon him, ex Officio, to make a Declaration of an Average. And the faid Earl faid, That he does not know that any Order was made by him for Mr. Edwards to pay any Money that had been lodged with Mr. Dormer, except the Order afo mentioned, in the Cafe of Chitty, but believes several Orders have been made by the Court for that Purpofe, and that the faid Mr. Edwards, under a firm Perfufion that the whole Deficiency would be made good, paid out the whole Sums fo ordered, fo far as the Money then in his Hands would extend. XIX. To the eighteenth Article the faid Earl faid, he never knew how the Matiers kept or dispofed of the Money and Effects belonging to the Suits of the Court; and as he believes, that after Dr. Edlibury's Failure, the then Lord Chancellor, fo he knows that afer Mr. Dormer's misfortune, the Earl thought of several Methods to prevent any Inconvenience upon the like Accident for the future; but they had both the fame misfortune, not to bring any of them to such perfection, as to venture to put them in praftice. That several Proposals were made to him by the Persons he consulted upon that Occafion, but none that he believes, it would be ftrictly not to hand them fablished; some things were propofed that he thought impracticable, some incoherent, some incompatible with that compleat Regulation he hoped to make, the Objects he propofed to himself, were to provide for whatever Deficiency might happen in the Office late Mr. Dormer's, to secure the Matiers from any future Loafs, and to make severall Regulations relating to the Offices of the Matiers, and he thought there would be bef done together, nor had he perfected the Scheme of any one of them to his own Satisfaction; he remembers no Propofal, that he thought would take it totally out of the Power of the Matiers, to dispofe of the Securities of any fuch nature as effectively fecure the Cath. The faid Earl admires, that the Matiers should have any Security to be given by any of the faid Matiers at the time of their Admittance, because it had not been done by his Precedenters, who were much wifer Men than himfelf, nor was he fo much as affayd by any of the Parties interested fo to do; as to what the faid Earl did with relation to the Accounts of the faid Matiers, he hath already for, and faith, That he gave no Permission nor Encouragement to the Matiers of the Court, to employ or traffick with the Matiers money for their own Gain or Profit, nor offered money, that with refpect to the Securities in the Hands of the Matiers, he made no general Order, and thinks it needless matterf. but because, notwithstanding what is alleged in the Clofe of this Article, he believes all the pretent Matiers did, in December laft, produce all the Securities in their Hands, and the Court of Chan- cery hath fince feared the fame for the Benefit of the Matiers.

XIX. To the nineteenth Article the faid Earl faid, That upon great Confeffion of Mr. Dormer's Deficiency, and of the Danger there might be of further Inconveniences, with relation to the Money and Effects in the Hands of the Matiers,
Mallers, and of several Disputes and Differences that had arisen in the Court of Clarence, and of some Applications of the said Mallers, for estab-
lishing them in their just Rights, and of some Prayers of the said Mallers, for the Advantages of his Majesty's Subjects being Suitsors there; which Requete, his Majestie, out of His wanted Goodness, was pleased to receive very graciously, and named several Lords, and other Honourable Person's of His Privy Council, to be a Committee, to take the same into Consideration, and pursuant to his Majestie's Command, the said Committee met, and began with the Accounts of the said Mallers, wherein the said Earl begs leave to appeal to each of your Lordships, who attended in that Committee, whether he did not contribute to the ut-
most of his Power, to have every thing done, which the said Committee thought expedient: And the said Earl faith, that he made all such Orders as were by them judged requisite, and so prefaced the Execution thereof, that not only the Accounts of all the Mallers then in being were brought in, but all the Securities in all their Hands, and the Caxt of most of them were actually lodged in the Bank of England, and therefore the said Earl is greatly surprized, to find himself charged with obliterating the taking of the Accounts, which he had thus de-
sired might be taken, and contributed to the trad-
ging of them with all his Power. And the said Earl faith, that he never thought of preventing a parliament Eng.
y, any otherwise, than by making it unnecessary, and procuring to the Sui-
tors a full Redress of all their Grievances, and rec-
tifying whatever he found amifs, and that he look-
ed upon to be his Duty, and begs have to say it here once for all, in answer to all the several Infurations of that kind contained in the Arti-

And the said Earl further faith, that the same Accounts were taking, every one of the said Mallers declared over and over, that they had Effets sufficient to answer their whole Accounts, and the said Earl firmly believed the fame to be true, and as all of them, that he knew (which he believes were all, or at all least all but Mr. Kyngsley) had told the said Earl, that they were able to an-
swer their Accounts; and when they brought their Accounts to the said Earl, for him to lay before the said Caxt. Mr. Godfrey had written under his Account some Declaration to that Ef-
cet, and some others of them, as he remembers, had made use of some other Expressions, which he thought not so proper; and some, as he be-
lieves, had wrote nothing (but he cannot convin-
cuish the Persons); and the said Earl thinking that when the said Accounts came to be laid before the Committee of Counsel by him, it would be proper that the same Thing should be declared to the Committee, which had been laid to him finally, he had related them to the said Words, which they ut-
der their Accounts, and did tell them, in great Sincerity and Friendship, that at a Time when
XXI. To the One and twentieth Article the said Earl faith, that upon the aforesaid Review of his own Behaviours, during the Time he had the Honour of serving under the most Serene Majesty in the Office of Lord Chancellor, he is not conscious to himself that he ever did, in any illegal or arbitrary manner, extend his Power, or the Power of the Court, beyond their lawful and just Bounds, or that he did arbitrarily or illegally al-fame to himself, as Lord Chancellor, or by Colour of his Office, any unjust and unlimited Power of dispensing with, suspending, or controuling the Laws or Statutes of this Realm, or that he any ways appe- procted the Suisters of the Court, or was guilty of any Breach or Violation of the Rights or Liberties of the Subiects, or of any interfering with the regular Course of Justice. With regard to the particular Complaint against him in this Article, the said Earl faith, that Rakebl John Tyson, in the Article named, as the Earl is informed, cau-ed a Bill to be exhibited in the Court of Chan- cery, in the Name of her Son and Daughter, in the said Article life-wised named, by their Prerogative Army, against her-self, and the said John Tyson and others, to have the Trusts in the Will of her late Husband duly performed; and the same was brought to Hearing at the Rolls the seventh Day of July, One thousand seven hundred and eighty-eight, and by the said Court nearly and correctly Things ordered, upon the Prayer (as the said Earl hath heart and believes) of the Counsel employ'd by the said Rakebl John Tyson, that a Receiver should be ap-pointed of the Rents and Profits of the Real Estate, who was to have a Salary allowed him, and Power to let and let for the said Estate, as there should be Occasion, with the Approbation of the Master, to whom the Caufe was referred: and the said Earl faith, that an Execution of that Part of the Decree, which directed a Receiver to be appointed, the Master having certified that he had appointed John Nicholais, Esq., to be the Receiver of the Rents and Profits of the said Estate, the said John Tyson, thinking himself aggrieved thereby, did, in the usual Course of Pro- cedings in the said Court, cause Exceptions to be filed against the same, and upon the arguing thereof before the said Earl, by Counsel of both Sides, Affidavits were read, to shew that the said John Ni- cholais was an improper Person: that the said Tef- tator had declared in his Life-Time, that the said John Nicholas by Name should not have any Thing to do with the management of his Estate; and that a considerable Part thereof consisted in old Houses and Water-Works; and the said Earl, upon a full Hearing of both Parties, was of Opinion that the said John Nicholas ought not to be appointed the Re- ceiver; and upon the Proposal of the said John Tyson, then in Court, order'd Robert Dayley, Esq., to be Receiver, he giving Security to be approved of by the said Master; which Order was made, as he believes, on the sixteenth of January, in the Year One thousand seven hundred and eighteen; and affirmed upon the Re-arguing the said Exceptions on the sixth of March, in the Year One thousand seven hundred and eighteen; since which Time the Parties interested have never thought fit to complain thereof to your Lordships by Appel, in order to have it reversed, as mistaken or unjust, though now the malicious Complainant is complain'd of as a crime; and the said Earl is resolutely of his Mind to own, that he was very well acquainted with the said Robert Dayley for some Years before the said Order, and believed him to be a Person of great Honour and Integrity, Application and Exactness, and be- lieves there are several Persons of Distinction to whom he had the Honour to be known, who had the same Opinion of him; but the said Earl did not appoint him Receiver because of his own Respect for him, but because he was named by the said John Tyson, who was Uncle of the said Child, and Executor of his Father's Will in Trust for him, and by the said Will appointed his Guardian in case of his Mother's Death or Marriage, and to whom the said Tef- tor had devised the said Estate, in case of the Death of the said Infant without Issue Male, and whose Inter- est therefore it was to take Care of the Infant's Interest in that particular; and the said John Tyson and Sir Caesar Child (whole Daughter the said John Tyson had married) had such Confidence in him the said Robert Dayley, that upon the eighteenth Day of March, One thousand seven hundred and eighteen, they gave him the said Estate in Recognizance, together with him, in the Penalty of four thousand Pounds, for the said Robert Dayley's duty accounting for and paying the money he should receive out of the said Infant's Estate; and the said Earl faith, that no Complaint was ever made to the said Earl against the said Robert Dayley to the Time of his Death, but he owns that he hath heard, that upon the Master's Stating of the Accounts since Christmas last, there does appear due from the said Robert Dayley about Two thousand and five or six hundred Pounds, but believes there is not any Error or Doubt but that the same is very well secured by the said Recognizance.

And the said Earl does not remember the particular Expressions used by the Counsel or himself, upon arguing or re-arguing the said Exceptions, but he cannot believe that any Counsel of great Ability and Experience in the said Court, would have thought what the said Earl did extraordinary, much less would have used such an Expression to the said Earl as in the Articles, which is an indecent Confusion of his Proceedings; and here being a Decree in this Court, approved of by all Parties, that a Receiver should be appointed to receive the Rents and Profits of the Infant's Estate, the said Earl is at a Loss under- stand, how the fixing on the Peron to be the Re- ceiver, upon good Security, to account for and pay the same for the Infant's Use, is Reviving the Court of Wards, whose Business it was to take the Rents and Profits of the Infant's Estate for the King's Use, without accounting for any of them to the Infant, but barely providing a Maintenance for him, at the Dil- cretion, perhaps, of some Grantee of the Custody.

Thus the said Earl has laid his Case before your Lordships; and doth further, for answer to all the said Articles, say, that he is not guilty of any or all of the matters contained in the said Articles, or any of them, in manner and Form as they are therein charg'd against him; and the said Earl doth further insist and the Benefit of his Majesty's most gracious and general Free Pardon, granted to all his Subjects (not therein except'd) in and by an Act of Parliament for that Purpose made in the seventh Year of his Majesty's Reign, in B. of, and in his Defence against the said Impeachment, and the said Articles exhib- ited in maintenance thereof, and all and every the Proceedings thereupon, so far as the same extend to any Neglect, Offence, or Misdemeanor, or suppos'd Neglect, Offence, or Misdemeanor, or any other Act, Matter, or Things, suffered, done, or committed, or omitted, by him the said Earl, before the four and twentieth Day of July, in the Year One thousand seven hundred and eighteen, and none but the said Earl shall be con- fess'd, that in Evidence ought to be given against him for or concerning any of the Matters or Things afore- said, in and by the said Act pardoned, or any of them; and doth aver, that he is not within any of the Ex-ceptions in the said Act contained.
THE Commons REPLICATION to the Answer of Thomas Earl of Macclesfield,

The Commons have considered the Answer of Thomas Earl of Macclesfield, to the Articles exhibited against him by the Knights, Citizens, and Burgesses in Parliament assembled, and observe, that the said Earl hath indisputably avoided giving a direct and particular Answer to several matters positively and certainly alleged against him in the said Articles, which, from the Nature of the Facts themselves, must necessarily lie in his own Knowledge, and hath attempted to dispute and cover the said Crimes laid to his Charge by interposing, by immaterial and extraneous Influences of Facts of a different Nature; and that many Parts of the said Answer are contradictory to, and inconsistent with each other, upon which they might demand your Lordships immediate Judgment: Yet the Commons being able to maintain the Truth and Justice of their Accusation, are willing to enter into the due Examination thereof; and do aver their Charge of High Crimes and Misdemeanors against the said Earl, Earl of Macclesfield to be true, and that this said Earl is guilty, in such Manner as they think impeached; and that the Commons will be ready to prove their Charge against him, at such convenient time as shall be appointed for that Purpose.

Lord C. J. King. Gentlemen of the House of Commons, you may proceed as you please.

Sir G. Ccsden. My Lords, the Commons of Great Britain in Parliament assembled have, out of their indifferency of Duty to his Sacred Majesty, and zeal for the Security of the Estates and Properties of their Fellow Subjects, exhibited a Charge of High Crimes and Misdemeanors against the Earl of Macclesfield, late Lord Chancellor of Great Britain, complaining of many dangerous and corrupt Practices, many grovess and heinous Offences committed against the good and wholesome Laws and Statutes of this Realm.

The first and principal Accusation of the Commons is, That the Earl at the Bar, whilst he continued in the Office of Chancellor, did illegally and corruptly inflit upon, and take of divers Persons, several great and extraordinary Sums of Money, in order to, and before their Admission into their Offices of Maiters in Chancery; and that those Offices concern the Administration of Justice, to the great害 of that State.

This, my Lords, is a Charge of the deepest Dye; The Crimes alleged strikes at the very Root of Government itself; it is the Essence and Stability of Society, that Justice should be administered with Clearness and Impartiality, that the People may sit easy under the Wings and Protection of the Laws, and their Properties be guarded from unjust Invasions. In the Progress of the Charge your Lordships will observe, That almost all the other Crimes and Misdemeanors, of which this noble Person stands accused, are subservient to this chief Object of aninating together vast and immense Sums of Money, and that they have a tendency to advance the Price of these Offices: Whether they be acts of unjust Oppression; of wilful Neglect; or of partial and unequal Administration of Justice; whether they be acts of open Violation of Duty, or of secret and private Iniquity to evade the publick Justice of the Kingdom: Your Lordships will find these Arrows drawn all from the same Quiver, dicing in the darte deadly Poison, and directed to the same Mark.

In order to feth this in the clearest light, I must go on and observe, That the Arrows and the said Office are in the next place. That insufficient Persons were found out and pitched upon, to be admitted Masters of the Court; Men of small Subtance and Ability; no ways fit to be entrusted with the great Sums of Money and Estate, lodged in their respective Hands.

My Lords, the natural Qualities and Endowments requisite to recommend Men to so great a trust ought to have been Honesty and Probity; the acquire d ones, those of Knowledge and Experience; without a due Mixture of these it was very hazardous to admit any into trust; But no Quota Credit and Competency of Fortune were Ingratulated necessary neither; because whatever Loses, or Misfortune, might attend the Management of a Matter so accomplished, in the ordering the Suitors Money, here might be some Provision coming out of his Estate to make Reparation. Your Lordships will, no question, at the first View, think it carries an odd Appearance, when this unfortunate Earl had resolved within himself, at all Hazards, to raise-extraordinary and immense Treasures out of the Siledes and Distipely of the Matter Places, how it should answer his courage Defeat only be taken Perilous, small Subtance, and some of almost desperate Fortunes, utterly ruinous to lay down the vast Prices those Offices were sold for at publick Auction: But, my Lords, the Valués of the Price was no Objection, or Dicouragement, to a Person already undone, provided he might be made easy in the manner of Payment, and run no Hazards. Men of Subtance might very well be afraid to profess, as his Lordship's Pharisaism, a whole Estate at once for an uncertain and precarious Precious, either of Succeed in the Office, or of Life, or Health, to enjoy it; the better Engines and Instruments to effect the same; Lord's Purposes, were Men of small and battered Circumstances. And therefore the Commons go on and charge, That there was a fraudulent and unwarrantable Method made use of in paying for the Maiters Office out of the very Money belonging to the innocent Suitors of the Court.—That this Practice was notorious and publick, and the Person at the Bar well acquainted therewith. Your Lordships now observe, That the greatest Difficulty of all in an indigent Person, viz. the Payment of the Money, was, by this dangerous and unjustifiable Contrivance, totally removed, and what a Man was never to be out of a harmless, when a Man was thrown into any Fears and Opinions of being questioned for misapplying the Suitors Money, is it at all to be wondered at, that the price of these Offices should swell to that Bigness, as long to be the topic of Conversation in the World about us, and at last become the Subjeqt of a national Enquiry? This scandalous Method of Payment is of the most malignant Kind, and a Sutor is, contrary to the Law of Nature, made the Instrument of his own Destruction; his Substance which ought to be his Support and Relief, is turned to be his Oppressor. And if we ever see a thing bigger it is, in order another to discountenance him of the Rest. The great Person, whose Duty it is to protect his Property, is the Promoter of his loss, and is the more un pardon able in it, as he turns that loss to his own Advantagae. If it be a thing universally condemn'd, for a Person in the Earl's late high Station, to borrow a Sutor's Money without his Knowledge, notwithstanding he offers a moderate Interet for it, because it is encouraging the Masters, by his own Example, to lend out Sums with as much Justice to other People, his pretense is, that the a Crime to put Men properties to hazard, how much blacker is it to take them to one's self, and incorporate the Widow's Mite with one's own Hesl? But, my Lords, when such
such prodigious Sums were extorted from the Maiters, could it be any Mystery how they were to re-imburse themselves? For although they paid no Money of their own, yet they made themselves accountable for what they used of the Suitors; it was not an obvious Consideration, That if they dared pay for their Employment with part of the Trust-Money, they meant to traffick and game with the remainder too? They came in Maiters upon the Trust-Money for a little while, but to pilfer their fierce thole under their Care. What must be the natural and unavoidable Consequence of lodging in their Hands such uncontrollable and licentious Power over their Caff, that the first ill Run would cruel them at once, and prove the Way to great Deficiencies! But left the prospect of so calamitous a Case should deter the most greedy from contracting for a Maiter's place on Terms the most inviting, you will see, in the Series of this Affair, what Shifts, what Artifices were employed, to hide such a miserable Scene from the Eyes of the World. For the Commerce in the next place charge, That Flourish Denker, Ely, having embezzled great part of the Effic's belonging to the Suitors of the Court, did, indelibly to them in divers Sums of Money, amounting in the whole to 20,000l. and upwards; that the noble Lord at the Bar has not made any proper Inquiry into Dornier's Deficiency, taken no Care about his Effects, but has endeavoured to hide and conceal, from the Suitors, the State and Condition of the Office, and that this Concealment was, left a publick Discovery of the Deficiency might be of the utmost Gains he proposed to himself from the link of the Maiters places. Your Lordships observe here, That the great and manifest Neglect in the Execution and Discharge of his Duty, a willful and deliberate Neglect; not arising from the Infirmity of human Nature, but growing out of the Corruption of its Inhabitants, by no one Shadow of Excuse, but aggravated by the Attendance of many foreseen ill Consequences. If an Office abused in the most fatal Manner, on the Brink and precipice of utter Destruction, was not a proper Object of his immediate Inspection, to observe the most prosperous Offices did not deserve his Care, what Maiter, who was an Eye-Witness of this, would be under that decent and necessary Awe of the prefusing P. R. F. and keep himself within the just Bounds and Limits of his Office? This, my Lords, is indeed a willful Neglect; But if you look on it in another Light, in order to conceal the Deficiency, that the Value of the Maiters Effic's might not be run down, it will appear, in its worst Colours, an Artifice to support and carry on a Fraud, a Confedence of Duty for the sake of Corruption. The Series of the Accusation will evidently shew, that the Earl's Heart did not set upon this Concealment; for we shall now find him beginning to display his utmost Ingenuity; here was an Accusat, which, unless great Care were taken, would entirely frustrate and blow up his Designs; were Dornier's Deficiency divulged abroad, and the whole Body of the Suitors (who had take a Right, even from Propriety, to take care of) made acquainted with the ruinous Condition of his Office, who would answer that the Government itself might not have been alarmed, and a publick Inspection made four Years ago into the other Maiters accounts too? The threat of a publick Examination now overbalanced all other Considerations, and though as some of the Suitors (whose Intelligence and Sagacity were better than the tell) were daily preying and solicitating for their Due, the Office-money embezzled, no care taken to secure Dornier's Effects, all Supplies and Demands on William cut off by the wrecked and unwarable Composition made for the Suitors without their Consent Knowledge; these Distresses and Difficulties preying and surrounding this unfortunate Earl, it was necessary some measures should be immediately concerted to prop and support this tottering Office; and therefore, my Lords, you will now find him arm'd him'self with the Weapons of Authority and uncontrollable Power, and playing the Tyrant under the specious Pretence and colour of Duty. For the Commons go on and charge, that the Perfon at the Bar, during the time he was Lord Chancellor, made an Order for the Maiters to send back their respective Accounts of the Caff and Securities in their Hands; (a very proper Inspection, no doubt, but it had been well designed) but your Lordships will observe the Charge is, That this was done to terrify and induce the Maiters to contribute money towards Dornier's Deficiency; to conceal the true State of the Deficiency from the Knowledge of the World; and they further allege, That in pursuance of this intimidating Order, money was contributed for that purpose, part of which we shall prove to be paid since the Act of Grace, on the 11th of August, 1721, and that those Accounts were not infallibly upon that after. My Lords, This projectful met with its desired opposition from the Maiters; however, the apprehension of losing the Caff and Effic's prevailed at last, the point was carried, and a Sum accordingly contributed. When your Lordships have but just now seen that there was a very visible, and designed Neglect in forbearing to inquire into Dornier's Effects, and to go to the Bottom of his Deficiency; is it to be imagined, that this calling for the State of their Accounts couldn't be done out of Vigilance and Duty? No man can think so; were they ever infallibly upon the Contribution? His Lordship knows they never were; if the real Design was to search and examine them, it was as proper a time to do it after the 11th of August 1721 as before, nothing believed they were in a better Condition, the Maiters had the fame free power of their Caff, and the Perfon at the Bar had as deep a Sense of his Duty after that day, more, as before. If the misbehaviour of Dornier gave occasion to this designed Inspection into the general Condition of the other Offices, how came it about the Design was never carried into practice, till his Majesty, out of compassion and paternal Goodness to his oppressed People gave directions for that End? The Deficiency of Dornier continues still, and yet the Earl imprecated has made no Regulations in the Offices, examined no Accounts during the Time he remained in that high Post; nor set up any Lights, or Land-marks, whereby the present deficient Maiters might have cleared the Rocks on which they have split. No, my Lords, this was only a pretense of regulating; a Diffamilation of Duty, for the better Concealment of Dornier's Frauds. Besides, the Proposals that the Maiters should contribute to the patching up a Deficiency in another Office, is unjustifiable, if, as Earl of Lauderdale was, in such a Condition. Can any thing be more repugnant to Justice than to oblige the Perfon to repair the Losses of another, incurred without his Knowledge or Fault? Or where is the Advantage to the Offices in general, allowing it to be just? If Dornier's Deficiency be supplied out of other Offices, will not those Offices miss those Supplies, and be as much impoverished in the general, as Dornier's is mended in particular? Surely, my Lords, there needs no reasoning about this, The Thing speaks itself. The Commons take notice of an alternative in this Article offered to the publick inspection, or to the contribution out of other Offices, as immediately stripping of the Caff and Effic's; so that upon paying down the Sum demanded, a Maiter was confirmed arieth in the ill Conduct of his Affairs, he pays his Fine, and renew his Lease of Knavery and Impunity; his Books may be kept as close from Inspection as the Books of the Sylls, they contain alike the Deflity of Mankind, and he may go on with Authori-
ry to prey upon the properties of the Fatherless and Widow; and no doubt the Muzzle argues upon as great Grounds. But let it be shown, that if for the Advantage of his unjust Schemes, the in-
peached Lord thinks it highly reasonable to extort money from him belonging to the Suitors, which is nev-
er to be restored, it may, with parity of Justice, be as
decent for him to take the same liberty with their Cath
ex, for the Service of his own. But the Commons de-
test the corrupt Practices of both, and expect ex-
emplary Justice on the great Offender at the Bar.

Thus far I have touched in a general manner on the Management and Artifices used in the Concealment of
Durner's deficiency, and, no doubt, it must create an
amazement, how it was possible for one, who could ever enter into the leastmost Recalls of his thoughts, that so great a Calamity as this could possi-
ibly be for ever hid in Darkness; that so torn and
plaghy a wound could ever heal itself; or rather, that it
should not by long Neglect become quite insensible.

Your Lordships will observe in the ensuing Charge,
That Mrs. Elizabeth Clithy, an unfortunate Widow, hav-
ing obtained an Order from the Earl at the Bar, by
virtue of which Mr. Edwards, Durner's Successor, was
to pay her 1000l., 44 pounds, a much larger Sum depos-
it in his Hands, at Durner's, and afterwards going to
pay the same, or having sufficient in his hands, out
of Durner's Effects, to answer the said Demand. The
impeach'd Lord did again make use of the fame Arti-
ces and Stratagems to compel the several Malters to
contribute this further Sum of 1000l. to fill the Complain,
and fhte the murmurings of Mrs. Clithy; and did allo intimidate them, by representing, That if the
Deficiency were known, a parliamentary Enquiry
would probably ensue, and the Malters be deprived of
their Offices, having brought them contrary to Law:
this not, however, affrighting the noble Lord's common
Sense. That in order to accomplish his wicked and corrupt Purpo-
ses, he did himself pay the 1000l. into Lackman's
Hands, for the Use of Mrs. Clithy, saying, this was
the last money she was ever likely to receive, by rea-
on of a Deficiency in Durner's Office. My Lords,
you see here is a second Attempt, a fresh Endeavour to
conceal the deficiency by the aid and affittance of the
fame measures made use of before, but backed by the
Terrors of a national Infraction. The Continuation of
these Arts is no small presumpition, that the End
itself was unjust in the Earl's own Judgment. His Cross
marks the fraudulency, arrogance and springing out
of his own Arguments and Conclu5s. If a publick
Discovery of this Deficiency would lay the Foundation
of a publick and national Examination; what safer,
what more expedient measures could be conceived and
taken, than immediately to satisfy Mrs. Clithy's De-
mands by the Refusal of which, this publick Discov-
ery, so much, and so fully apprehended, might come out?
And what stronger Inducement could he by
before the Malters, why the Burden of this Payment
should fall upon them, than by shewing in how fatal a
manner on national Reputation would affect them-
selves? He represents to them their having parceled
their Offices (and many of them of himself too) in
direct defiance of the Law, and that it was their near
Concern to avoid the Pit, in which they were likely to be
swallowed up. My Lords, I take this to be a plain
Confession of his Crime: Our Accusation is, That
the fate of these Offices is repugnant to Law and Jus-
tice; here is his own manifest Acknowledgment that it
is, but aggravated and heightened by this flagiti-
Circularatum at. That whilst he is reminding the
Malters of that Guilt which he himself flattered, he
draws an Argument from that very Guilt, why they
should affix him in a fresh Offence; and since they
had already offended against the Laws of the Land,
if they would avoid Punishment, the best way of de-
(160)
You have his Own Word for it, that he knowingly excepted the at-
tutable Limits prescribed by the Wifdom of our An-
cessors, for the Safeguard and Protection of the Righ-
and Properties of the British Nation. If the Buyer is
Criminal, how can the Seller be Innocent? And yet
his Lordship, it seems, knows of no Statue now in
being, on which Judgment can be prayed in this Pro-
secution. 'Tis this willful and deliberate Tranfgres-
sion of the Laws that has opened that Fountain of Intrety
which has drowned and laid waste the Fortunes of our
Poor Subjects; by what a perspicuous Charge thus far, it is evident, That
whether a willful Neglect of Duty has been wanting,
or a thorough Contempt of Justice; no Paids fail.
o Artifices unemploy'd to pluge the Deficiency in
Durner's Office in the deepest Obscurity. You have
found him forcing and wretting a Contribution from
the Malters; nor such a one, my Lords, as would e-
qually answer all Demands on the Office, but as a bare
Sufficiency to satisfy the Importunities of Persons for
the present, and thereby left others to a destruotive and
fatal Security; to make a little fiew and appearance of
accomplishing this Offence, which the Malters were after-
wards directed to fulfill. He tell's you, that where
Lord will soon find him acting another Part, and chicaning
Lackman from ingaging any further in the Marriage
with Mrs. Clithy (for the Solicitations of a weak Wo-
man to have her jullire Dadj mght be easier dealt with)
affirming him, that the Deficiency was such as muft in-
failily root out all future Hopes and Expectations on
her Account; and yet the close of this Article attests
forth, That so lately as the fifth of December last, this
Earl filling then in open Court, did, in a C Jude
defending before him, protest and affirm, That, for his
part, he knew nothing of the Office Deficiency, but as
pubhsh News. My Lords, if Truth and Sincerity
are not to be found in the Stat of Judges, where
must we look for them? Where shall we place our
Confidence, if there is no Dependence on the Affirm-
ation of a Judge? Where shall we seek. Examples wor-
thy our Imitation, if the uprightness Places afford them
not? But to pass o...
be any otherwife of Service to this Noble Lord, or make any amendments for diminishing Reputation, but by stumping the mouths and Cries of the follicting Suitors with such Proportions as would go down with them, prevent the Contagion from breaking out, and disappoint the Application upon a bold and declaratory manner shall plainly the mischief. Consequences the Sale of the Mafiers’ Goods has been attended with; the fraudulent methods of Payment; the unjust and uncontroulesd Abuse of the Mafiers; the great Neglect of Dernor’s Deficiency; the unjustifiable Concealment of it; the stretches of Art and Injustice in the manner of doing it: tis one continued Series and Surrection of maleadministration, calculated for the advancing the Profit and Gain of the Perfon at your Bar. Your Lordships would, no doubt, wonder, why so great a Truth as upwards of a million of money, should be repofed in the Mafiers, without some reasonable Security on their Part, or some proper Restrains laid upon them for their due and fair Discharge of it, especially, since Dernor had broke, and brought upon the Sufferers to fatal a Misfortune: And this it is, my Lords, that raises the resentment and amazement of the Commons, who farther charge, That, notwithstanding the Earl well knew that Dernor’s Deficiency was chiefly occasion’d by the liberality he affirmed to himself of Trafficking and Gaming with the Suitors Effects, and that the other Mafiers did, or had in it their Power so to dispose of, or otherwife misemploy the money and Securities in their Hands; and, notwithstanding a reasonable and proper Scheme was laid before him, whereby the like misfortune might be prevented for the future, yet the Earl never required any Security, or any prudence was on the Mafiers, but left them to the wide and boundless Liberty of abusing their Truth as Avarice and Ambition suggested Occasions. I will not enter into the Consideration how far it may have been the Practice not to require Security, I take it for granted, if none has been formerly demanded, it was because the Prefiding Perfon were vigiley executing the Duty of their Offices, and by frequent Inspections into the Mafiers Accounts, restraining them from the Exercize of unwarrantable Power. But were that otherwise, had Precedents, my Lords, will not justify Omnifions; no, not examine them, there is no Influence can influence so many, nor so much to the Advantage, and any, where it was so indefinislably and absolutely Necessary as in this Cafe; there was no need or use of any Example to remind him of it, common Prudence teaches us the Necessity of providing against Disorders or Lofts for the time to come, which our past Negligence has once brought upon ourselves or others; tis the only Attonement a man can make for his former Faults; and if the Perfon at the Bar had had at heart the least Intention of repairing the Breaches made in the Justice of that Court where he governed, here was the most fortunate Opportunity of doing it; for your Lordships shall find the very Mafiers themselves, in a manner, importing and following this Scheme by their Hands by such proper and equitable Reftriccion, as would put the flutting Fortunes of their Fellow-Subjects on the firmeft Establishment. Had the Noble Lord listened to this Proposal (which will come more properly within the Province of another Gentleman to open to your Lordships) the unhappy Deficiencies in the present Mafiers Offices had been fortunately prevented, the Clamours of the World about us had been loft, and the Nation easy. Did not Necessity oblige you? The deplorable Havock committed since shews it did. Did not the national Voice call aloud for it? The Profession of the Earl is sufficient Testimony. Was it not his Duty? Sure I am, it would have been his Happiness. And shall not the

Ruin of Widows and Orphans plead for Punishment and Reparation? The Commons rely upon your Lordships Justice that they shall.

But, my Lords, there is a Charge behind, which contains matter worthy your Observation; it sets forth; That the late sacred Majesty, out of his fatherly Goodness to his People, having directed an Empery to be made into the accounts of the Mafiers in Chancery in the month of November last, the Earl impeached did, by his advice and authority, persuade and induce them to make false Representations of their Accounts and Circumstances to his Majesty in Council, and to affil one another with false and effects to make false flew and appearance of their ability, that a parliamentary Enquiry might be prevented, and did oblige them to declare in Writing, at the Foot of their Accounts, That they were able and willing to pay the Ballance, although the Earl well knew many of them were not. Your Lordships, fare, cannot but be astonished at the Boldness of this Attempt, to defeat and frustrate the gracious Intentions of his most Sacred Majesty, to take from his unfortunate Subjects that redress and satisfaction, which their Duty and Loyalty, their Wrongs and Sufferings had claimed in his Royal mind; to deceive his Majesty at the very Council-Table, where he had the Honour himself to sit; and to deprive the Commons in Parliament of that Inquisition for Justice, which the Nation expected at their Hands. The Dread and Aprehension of parliamentary Justice is a strong Palfumption of his Guilt. Why, my Lords, should publick Enquiries terrify and diftroy an innocent Perfon? National Acquisitions are eternal Monuments of Renown; they are the glory and the gloire of a nation. Yet if the glorious Marque of triumphant Arches they retain upon Record to all Posterity, ne’er to be defaced by the mistake or Teeth of Time. But, my Lords, as there are monuments of Praise, so there are Columns of Infamy; there are National Condemnations as well as National Acquisitions; and the noble Lord must now take his Fate in the Judgment of your Lordships, which he so much dreads, it is an Evidence of a Man’s Crime, if he flies for it; it betrays a Self-Conviction in the Party accused, in that he dares not abide a legal Trial; it is another Circumstance against a Man, to be found tampering with Witnesses, and carries with it some Presumption of the Crime of which he is accused, and the chance and assistance of a false Evidence. Your Lordships have seen him as it were flying from his Trial, and you will now find him tampering and intriguing with the Mafiers in the most dangerous and artful manner; and that the Mafiers are Evidence, and close ones too, will fully appear at your Bar. You shall find him colouring and glossing over the Mafiers Accounts, with Touches and Strokes of his own, hoping to fletcher his own male-Administration, by putting the Vizor of Integrity on theirs; this is the glorious Exit he makes; thus he finishes his Imperial and Sub Administration.

My Lords, the Evidence to support this Charge will be opened to you by the Learned Gentlemen from whom the particular Proofs are affiled I shall not therefore take up your Time in entering upon that which exceeds my Province; I only beg leave to hope for your further Indulgence, while I make a general Observation or two on the Nature of the Charge.

The Ground-work and Basis of this noble Perfon’s Crimes is Corruption, a thing in private life the most detested, and in publick Perons, of the most malignant Influence to the State. It deprives the Crown of that solid Strength and Grandeur, that shining Lustre and Beauty, which a just Execution of the Laws refleets upon it. It diminishes the People or the advantage and Safety which naturally flows upon them from an impartial and unterupted Administration of Justice. The Confe-
quence of which will ever be, the Crown will lose that proper reverence and veneration from the People which are its due; and the Subjects, restless and uneasy for want of Justice, will lay hold on the first Opportunity of throwing off Alllegiance itself. It brings a national Re- approach upon us; and, by sowing the Seeds of discontent at home, expoys us to the Incursions and Depredations of our Enemies: But, my Lords, when it proceeds itself under the Shadow of Justice, and pursues theachievements of his Life up in Defence of our violated Laws, and lets a publick mark of infancy upon it. To what purpose are Judges and Minifters restrained, by the Provision of Acts of Parliament, from felling Offices under their Protection and Care, if Men shall hide themselves under example in bar of the Laws! Will Example plead for him? Surely, my Lords, there are none such: Or, if there were, what would that be but to defend Crimes by their own Blacknefs and Mal- ligriny? As if a Diltemper were not to admit of any Remedy, because it is general and contagious. But, supposing, for Argument's sake, there have been Great Perons, his Predecessors, who have ventured upon small Preferces and Graces of Occafions, does it follow, with our colour or pretence of Reafonings, because those have been confined within the bounds of moderation, therefore the Extortion of exorbitant Sums, to coynie at outrageous Measures and Opreffions, exceeding al- most the Fears of the Oppreffed themselves, should take Shelter under the poor Pretext of Precedent and Example? Ahs! my Lords, I am afraid Example only operates according to Men Appettites and Paffions; eile whence comes it about, that Example should have all the Beauty of an Angel in this In- fance, and all the Delicacy and Honour of a Fiend in another? His great Predecessor made no Attempts to come into Place, or have a Deficient Office in his Time. No, my Lords, he had no corrupt Purpofes to feed. The fame noble Perfon never ordered fome of his Commands, and left others groaning and flaming under the Preffure of an unequal Diftribution; he did the direft contrary. Happily had it been for this un- fortunate Perfon, happy for the Widows and Father- less, had he copied after the Example of his renowned Predecessors, in their wife and upright Diftribution of Justice, as well as shown to their eminent Names for Protec- tion, in the illegal Practices wherewith the Cobler and Virtue of this Nation reduced, if Impunity shall jally Offen- ces; if Bribery shall receive a Patronage from great E- xamples, and the basft Actions be adorned with the fame Luftre and Honour, that are only due to the most virtuous. But, my Lords, the Commons have found him bargaining and bartering an Office, in the Gift of the Crown, for the poor and forlorn Ad- vantage of an hundred Guineas. This is an Infance wherein the very Perfon of the King is infulted in the most flagrant manner; it is a Proliferation of the Regal Honour and Dignity, by one of the Laws of his own Tribe. As for his other Undeb- rection of the late, as one of the Joint Guardians of the Realm during his Master's Absence: As if there was no Access to the Throne for Grace and Favour, no tafting the refreshing Streams of that Foundation of Goodness, which rifes in his Majesty's Breast, for the universal Comfort of a dutiful and happy People, but by the Affiance of the most abandoned Measures. Can your Lordship's any longer wonder the People's Properties were employed to ill Purpofes, when his Ma- jesty's Prerogative is traffic'd with and fold? Could it be expected a poor Subject's Rights should remain secure under his Protection, as Chancellor, when the King's were of no more Use than the hands of his own Troubels? And yet, my Lords, how often and how gloriously has this Nation vindicated and affed its own Honour, in the Ruin it has poured on the Heads of corrupt Judges and Minifters! It was the Loss and Forfeiture of all the Lands and Eftate of Sir William Thores, Ju- fic of the King's Bench, who was fentence for Bribery in the Reign of Edw. III. Nay, the Sentence extended even to Loss of Life itself, though that part has been fince thought of no further Conformity, and should have ended in Imprifonment only. Very often does the Vengeance hurled on the Earl of Middlefex, which is to be found in the Rolls of Parliament. This un- fortunate Earl, having delayed Justice to the Farmers of the Cushions, in a Matter referred to him by King Iane 1, and having polluted his Hands with exorbitant Tribes, was sentence in Parliament to lose all his Offices, which he held in the Kingdom: to be for ever unemployable of any Office, Place, or Employment in the State; to be imprisoned in the Tower of London during the King's pleasure; to be fined 50,000 l., ne- ver to fit in Parliament any more, nor to come within the Verge of the King's Court. The Cafe of my Lord Bacon is another Infiance of the Virtue and In- tegrity of your Ancestors, in the Abhorrence they shewed, and the Punishment they inflicted on that Great Man's Crimes.

My Lords, if the Offences committed by the Earl, and those of the great Perons just mentioned were com- pared, and the Confquences naturally flowing from them, it would be found how much greater Guilt is comprehended in the Charge of this Day. I will not spend your Lordship's Time, in enlarging on a Di- finction between Bribery in an Office, and Bribery by Colour of an Office; between Bribery in a Judicial Way, and Bribery of Journeymen in Cafes, and Bribery in the Difpofal of Offices, that concern the Admin- istration of Justice; but only obferve, that the Sale of the Masters Places, accompanied with the Circumstances I have already explained, is attended with more mischiefous and oppreffive Confquences to the Sub- jeft, than a Judge's accepting a Bribe in Cafes depen- ding before him. By means of the latter a Perfon is put to an extraordinary Expenfe indeed to come at his Right; or, if he is deprived of it by a corrupt Determination, yet full there is another Refuge; and his Happiness is, that he may appeal to Parliament for Redrefs. But when the Company of the other Cafe is, he is come at no Right at all; his Money is embroil- ed and lofs, the Master runs away, the Chancellor is in the Secret, and there is no Remedy left. Is it any Excufe to fay, that the Master is liable to answer for his own Frauds, and not the impeached Lord? I beg only to put the following Cafe. If a Keeper, who has undertaken the Care and management of a mad- man, wifhfully neglects his Duty, fees the disordered Per- fon going to do Mifcheif, and does not interpose, is not the Keeper responsible? Surely, my Lords, by the Law of Reafon he ought. But what if the Noble Man were not a ftreet Mifcheif, and yet be the Oc- casion of it, from the Exercice of an unlawful Aet, there is no queftion but he would be unfafeible. A Perfon intends to rob the King's Forrest, and fothing at a Deer, kills the Keeper, is he not guilty of mu- rder? No doubt he is: Because though he did not in- tend murder, yet the Aet he was about, was an unlaw- ful Aet. But, my Lords, the Perfon at your Bar has not this Excufe; he forefaw the Confecuence, and his Intention was bad.

When the Commons confider the high Station in which this noble Lord was placed, the many Signal marks of his Majesty's Favour and munificence be- flowed upon him; the notorious Breach and Violation of his Office, and of the several great Truths repref-
In him; when they have found him prostituting and abusing the Authority and Dignity of the Crown, trampling upon the Laws and Statutes of the Realm, destroying and confounding the Properties and Rights of divers of his Majesty's Subjects; the Commons could not sit still, and for this great Offender triumph in the Luxury of unpunished Crimes, without using their best and most efficacious endeavours to bring him to Punishment, and to make him an Example of the Justice of the preient Age, a Warning and a Terror to Times to come.

Sir Clement Wray, Solicitor General. My Lords, I have likewise received the Commands of the Commons, to lay before your Lordships the Evidence, in maintenance of the Charge of High Crimes and Misdemeanors, against Thomas, Earl of Macclesfield.

The Nature of the Charge confits,

In illegally and corruptly selling and disposing of Offices, which concern the Administration of Justice; in using and practising many indirect and unjustifiable methods, for the keeping up the Price of such Offices, in order to advance his own unjust Gain.

My Lords, the Honour of every Government, and the Happiness of every Nation, depend upon nothing more than a strict impartial Administration of Justice; and the Justice of every Court depends not only upon the Uprightness of the Judges that pronounce the Decree, but likewise upon the Honesty and Uncorruptness of the lesser Officers, who are Affiliats to him, and upon whose Reports and Representations his Decrees are founded.

It was owing from a just Sense of this, that the Legislature in the fifth Year of Edward VI., in order to prevent such a corrupt Battering for Offices, which was before that Statute, against Law, widely provided, that where any Office, which concerned the Administration of Justice, not excepted in that Statute, was procured for money, the Office should become void, and the Parties concerned in the corrupt Bargain disabled from holding it.

The Court of Chancery, in which the Earl prefided, must be allowed with regard to the Number and great Value of Suits instituted there, to be by far the most considerable Court of Justice within this Kingdom.

The Masters or Chancery are (next to the Peer that has the Custody of the Great Seal, and the Master of the Rolls) the great Officers of that Court.

They are, by Commission under the Great Seal, associated with the Judges in hearing Causes, and claim a Right to interpose their Opinions in the making of Orders and Decrees under that Commission.

They are intrusted by the Court to state and report matters of Fact, upon the Truth and Fairness of which the Reports the Justice of the Decree of the Court must depend. They are sworn to advise the Chancellor himsell.

And of late Years they have been intrusted with the Effects and Estates of the Suits of the Court, to an immense and incredible Sum.

My Lords, great part of the Charge against the Earl consists in setting up those Places to Sale, in using unwarrantable methods to encourage Purchasers, and increase the Price.

It is matter of great Surprise, to find in his Lordship's Answer an Infinitation, that it is not illegal, or against any Statute, to sell those Offices.

Surely, my Lords, there are no Places, that concern the Administration of Justice, more improper to be sold from the Nature of them, or the Selling of which is more evidently against the Statute of Edward VI. than the Masters in Chancery, unless it be Judges themselves.

But it must be owned, the Expressions made use of by his Lordship, are conceived in such doubtful Terms, that it is difficult to know whether he intends to represent the lawfulness of selling those Places for a Price, or only of taking a Present which the Party gives freely, voluntarily, and of his own accord, and which his Lordship says his Predecessors used to take.

This possibly may be a Difference between a Present and a Price; if there is, it is the latter his Lordship is charged with taking; a Price fixed by his Lordship, inflicted upon, bagged for, and with Unwillingness paid by the Purchaser.

But, my Lords, even this may be said to be nothing more than an Offence against the Statute of Edwin VI., which as it creates the Offence, so it prescribes the Punishment.

Where the Person admitted to the Office is in all Respects equal to the great Trust reposeed in him;

Where the Price given bears a Proportion to the lawful Gain arising from such Office, there may be some Pretence to say, it is only an Offence against that Statute.

But if Persons are admitted to an Office, by which they are intrusted with near 100,000 l., and give as much, or more, for that Office, than their whole Subsistence amounts to;

If the Price they give is greater than can possibly be given, by one who would be contented with the honest Profits of the Office; if that Price is paid for out of the money of the Suitors of the Court; if, to make the Officers amends for giving such extravagant Prices, they are connived at, indulged, encouraged to traffic with the Money and Effects of the Suitors of the Court, lodged with them for safe Custody;

This is something more than barely an Offence against the Statute of Edward VI.

'Tis selling a Licence to abuse and defraud the Suitors of the Court, and making the Suitors themselves pay the price of that Licence.

It is this the Commons have charged the Earl of Macclesfield withal. And this surely is illegal, and against some Law or Statute in being.

My Lords, the ill Consequences of this Practice are very obvious; the leaf of them is a Delay of Justice, from the Masters using Stifs and Excuses to continue the Suitors' Money in their Hands, which they are allowed to make a Profit of, and which probably, when called for; may be locked up by some hazardous Contract.

But the most fatal Consequence is, what cannot be mentioned or thought of, without feeling the greatest Compassion for the unhappy People concerned in it; the Loss which the Suitors of the Court are likely to sustain by it. The Hazard was all theirs, but the Gain belonged to others.

My Lords, whatever Excuses might be made for his Lordship, from the great Variety of Business his high Office engaged him in, which might prevent his attending to these Things; an Accident happened in his absence, so that the Time, sufficient to avert the most engaged Attention.

When Dormer withdrew from his Office, the Masters themselves were alarmed at it.

When it appeared his misfortunes were brought upon him by trafficking with the money of the Court, and lending it to Goldsmiths at 10l. per Cent, they expressed a Concern for the Suitors of the Court.

And to prevent the like mischief for the future, a Proposal was made to his Lordship by one of them, that the Masters might give some Security for the Money in their Hands; that the Effects might be put in the Name of more than one Master, to prevent their being trafficked with.

This might have prevented the mischief for the future, at least in some Degree.
But who then would have given 6000l. for the Purchase of a vacant Place? Who would have given 1500 Gaius to procure an Admission?

For these Reasons the Commons charge the Proposal was not fitted to, nor was put in Execution. My Lords, another Accusation against the Earl consists in his making purchases at the Court, with a false Representation of the Matters Substance, by declaring from the Bench, that They were men of as good Fortunes as ever filled those places. Such an Encomium from a Chancellor would have been a great Honour, had all the persons really deserved it.

But it surely reflects Dishonour, if spoke at a Time when scarce any one person, who heard it, could give credit to it. When it was the Subject of common Conversation, that one third of the Matters had given as much, some of them more, for the Purchase of their Places, and to procure their Admission, than they were worth in the World at the Time of their purchase. And the person, for whose fake the Compliment was made, left deferred it of any; having but lately been a Receiver of a County, nominally discharged by infiltrating his Brother into his place, and having paid off a large Arrear, soon after he got the Money of the Suitors into his Hands, out of that money.

But there was then a Matter's place vacant. His Lordship is further charged with endeavouring to conceal the Deficiency in Damer's Office; With making a trifling, precocious Composition, for a large Debt affixed for the Benefit of the Suitors, in a very unwarrantable manner; With making Orders for the payment of money out of that deficient Office, without regard to the other Suitors, who were entitled to a proportion of what was left.

His Lordship seems to intimate, That he never thought there would be any deficiency in that Office, but is under a full persuasion that all would be made good.

How that is confident with his quitting 1500 Gaius from the Danger of a great Lofs in that Office, I shall submit to your Lordships; but surely the manner in which Damer withdrew was a strong symptom of a Deficiency, when the Suitors intrusted to secure his Effects found little more than the Debt from Wilton to answer a Ballance of near 40,000l.

When that Fund was reduced to nothing by a Composition made for half that Sum upon a Beggar, who has since escaped out of Goal, and abounds for Debt. From whence those full Affluences could arise, I must wait to hear from his Lordship.

That his Lordship did endeavour to conceal this Deficiency, needs no other proof than his not doing any one Act in publick relating to it.

Had Mr. Damer's perfon been rendered sacred, by that extraordinary promise of Security, mentioned in his Lordship's Answer, yet he might have been examined upon Interrogatories to dilate his Effects. The Suitors might have had some Warning to have used their Diligence in discovering his Elate, and preventing any Concealment of it. Nothing of third rate, but on the contrary, upon an Application by one of the Suitors to have his money transferred to another Matter, from an Apprehension of Loss, after Damer had abstained himself from the Office, he was informed from the Bench, that his Fears were rash, the Matter only gone to take the Air, and that all would be well.

From this Time every thing was carried on with the greatest privacy between his Lordship and the Suitors. Orders were made for the payment of money out of that Office, as if it had been clear from all Suspitions of Loss, contrary to that Rule of Equality, which is a fundamental principle of a Court of Equity. That where several persons have Demands out of a Fund like that, they must have the same proportion.

And sitho' where that Fund is in the Hands of private persons to be paid by them, it may be intelligible to talk of judicial Knowledge, and an ex Officio Declaration of an Average, Yet where the Fund is in the Hands of the Court, the payment is to be made by the Court, and the Loss sustained while the Court was possessed of that Fund. Every Knowledge of such Loss is judicial, and the Court ought in Justice, by what means sooner the Knowledge of that Loss comes before the Court, to direct the payment in proportion only. This however asSir William Strickland, I shall take particular notice of, whereby his Lordship is charged with endeavouring to disappoint His Majesty's gracious intent of having the Accounts of the Matters, and the State of their Office enquired into.

His Lordship, to put a Stop to such Enquiry, per- funded several of the Matters to make a false Appearance of Substance, and a Shew of Readiness to pay over the money and effects of the Suitors of the Court in their Hands. This was not only a Breach of his Duty as Chancellor, but a Violation of that high Trust reposed in him as he was a Privy-Councillor; and if his Lordship did at the same time in Council seem to promote every Sport taken there, that is a very great Aggravation of his Crime.

Such, my Lords, is the Nature of the Charge, which the Commons have exhibited against the Earl of Macclesfield; it is my province, and that of the Gentleman who is to speak after me, to open the Evidence; we shall produce to make good the several Facts contained in the 5th, 6th, 7th, 8th, and 9th Articles; but as the ninth differs very much in its Circumstances from the other four, I shall say nothing to that Article, but leave that to the Gentleman to whom the opening of these Articles is likewise allotted.

My Lords, We shall fly you, that notwithstanding the many great and beneficial Favours beloued uppon this Earl by the bountiful Hand of his Majesty, and those Honours conferred uppon Himself and his Family, the Dignity of his High Office, and the great Trust repose in him, have been prostituted, in order to satiate a boundlesse Appetite for unlawful Gain.

This I shall now particularly proceed to shew, by mentioning to your Lordships, in the first Place, the several Grants which the Earl, in his Answer, has not said to have receiv'd; and, afterwards, by opening the Evidence, the Commons will produce, to make good their Charge contain'd in the 5th, 6th, 7th, and 9th Articles abovementioned, which relate to the illegal and corrupt Admission of four Makers in Chancery. The first beneficial Grant the Earl, in his Answer, says he has receiv'd from his Majesty, before the Honour of Peacorg was confer'd upon him, was 1200l. a Year granted to him and his Affigns, during the life of his Majesty, in, or about June 1716; in the next place, that in the Year 1718 he was created Lord High Chancellor of Great Britain; and, that at the same time, his Majesty, out of his Royal Bounty, did bestow upon him 1400l. and likewise granted to his eldest Son, now Lord Parker, an annual pension of 1400l. payable during the joint Lives of his Majesty and the said
which we shall produce to make good the article, which relates to the illegal and corrupt admission of Mr. Thomas Bennet to the Office of a Mallet in Chancery.

Mr. Thomas Bennet, about July, 1723, bargained with Mr. Hircote, then a Mallet in Chancery, for the Sale of his Office, at the price of 750l. The next Thursday, he paid some, to be applied to Mr. Cattlingham, who did, defecting his recommendation to my Lord Chancellor for that Office. Mr. Cattlingham did recommend him, and told him, that the Lord Chancellor had no objection to him, that he knew his Father, and should be glad to oblige him; the Compliment, however, ended with a proposition of a present, as he called it, and said, he indeed would name no Sum, but that his Brother, then a Mallet in Chancery, and Mr. Godfrey would easily chalk out a Method for him. Mr. Bennet, my Lords, after consulting these Gentlemen, offered 1000 Guineas; Mr. Cattlingham took his Hand, and said, he did not care to go to the Chancellor with an offer of that Sum, that more had been given, and he hoped Mr. Bennet would not lower the Price. Mr. Bennet gave some Reasons why he hoped Lord Macclesfield would call the 1000 Guineas, and said he did not care to give more; Mr. Cattlingham again told him, he did not care to go with that Meffage; upon which Mr. Bennet affured him what had been given by other Malters; Cattlingham told him 1500 Guineas.

However, Mr. Bennet again desired he would go to the Chancellor, and said that if the Sum he had offered would not do, he would give 1500 l. Cattlingham desired to be excused from going on that Meffage, and said my Lord did not love Haggling; but that if Mr. Bennet would give no more, he might live the Office, for that if the Chancellor declined to admit that Sum, he would not go with any other Offer. Upon this, my Lords, Mr. Bennet at last, contented to give the 1500 Guineas; and this will appear to have been what the Lord Macclesfield calls Mr. Thomas Bennet's free Gift. The Guineas were paid to Mr. Cattlingham, who paid them to the Chancellor, for which Mr. Bennet was admitted into his Office, which appears to have cost him 9327l. and that very Sum, upon the making up of his Accounts, appeared to have been wanting in his Office, for the making up of his Balance due to the Suitors of the Court, I must say, I think this in the Office for Macclesfield, in his Answer, alleges, that the said Kyngfou and Bennet pretending they were disabled from answering to the Suitors of the Court, so much Money as he had taken from them at their respective Admissions, the said Earl did, before the Impeachment, pay into the Court of Chancery, for the Use of the Suitors of that Court, the two several Sums received by him from Mr. Kyngfou and Mr. Bennet; but, my Lords, that we shall prove to be a gross Mistake in the Answer, for we shall prove the said Sums were not repaid by him till after the Impeachment, and after they had been affidavits charged the Payment of these Sums as one Confe of the Deficiency in their Officers.

I come next to the Manner in which Mr. Francis Elde was admitted to his Office of a Mallet in Chancery, which happened in February, 1725, upon the Death of Mr. Fellows; we shall fly our Lordships, that Mr. Elde applied personally to the Chancellor, who told him he would treat with him in a different manner from any man living; in two or three Days after this he applied again to the Earl for the Office; and then did mention a Sum of 4 or 5000l. my Lord told him, Mr. Elde and I must not make Bargains.

So, my Lords, Mr. Elde after this went to Mr. Cattlingham, ...